H. Ct. Form No. 134-A—1,002—27-1-52.

JUDICIAL DEPARTMENT.

Received ———— 19 *Registered* ———— 19 .

Subject.

ENCLOSURES.
No. ————
————
Spare copies ————

Forwarding two copies of the printed records and two copies of the Judgments of the Court of Session and the High Court in Referred Trial No. 32 of 1953 (Criminal Appeal No. 110 of 1953 ————), in which sentence of death was confirmed.

B.C No. 185/53.

Madras. *Dated the* 1-5- 19 53

SECRETARY TO GOVT. 9788 8-MAY 1953 HOME DEPARTMENT

From

DEPUTY REGISTRAR
APPELLATE SIDE,
HIGH COURT OF JUDICATURE,
MADRAS,

To

THE SECRETARY TO THE GOVERNMENT OF MADRAS,
HOME DEPARTMENT.

Sir,

I am directed to forward herewith two copies of the printed records and two copies of the Judgment of the High Court in Referred Trial No. 32 of 1953 (Criminal Appeal No. 110 of 1953 ————), in which the sentence of death passed on the prisoner Vasu Samagara — by the Sessions Judge of South Kanara in Session Case No. 2 of 1953 on his file was confirmed by the High Court on 21.4.1953.

Two copies of the Judgment of the Sessions Court in the case are enclosed.

Your's faithfully,

1.5.53

Deputy Registrar, Appellate Side.

AS
The petitioners former Encl 6. Unnecessary.
and the copies of the police diary may be availed. (R.D. 25/5/53)

Rec 9.5.53. 9.5.53

PJ 9/5/53

6 29.4.53

1(6)

Assessor Case

In the Court of Session, South Kanara.

February Session.

Present: SRI P. T. RAMAN NAYAR, I. C. S.

Sessions Judge.

Wednesday, the 4th day of February 1953

Sessions Case No. 2 of 1953

Name of the Accused.	Vasu Samagara.	
Charge.	Murder – section 302 I. P. C.	
Assessors.	1. Sri B. Krishnappa (Devadiga–Hindu).	10
	2. Sri Anantha Nayak (G. S. Brahmin-Hindu).	
	3. Sri Veerappa (Bovi–Hindu).	
	4. Sri K. Raghunatha Bhat (G. S. Brahmin-Hindu).	
Opinion of the Assessors.	1st assessor is of the opinion that the accused is not guilty; assessors Nos. 2 and 3 that he is guilty of murder; and the 4th assessor that he is guilty of culpable homicide not amounting to murder, that he acted under grave and sudden provocation.	
Finding of the Judge.	The accused is guilty of murder.	20
Sentence.	The accused is convicted under section 302 I.P.C., and, subject to confirmation by the High Court, he is sentenced to be hanged by the neck till he is dead.	

The accused was defended by Sri B. B. Shetty, advocate, engaged by Court under rule 157 of the Criminal Rules of Practice.

The case was committed by Sri M. S. Menon, B. A., Stationary Sub Magistrate, Mangalore, in R. C. No. 13 of 1952 (F. I. No. 80 of 1952 of Mangalore East Police Station).

JUDGMENT. 30

The accused pleads not guilty to a charge of murder.

2. The prosecution case is as follows: From about six months before the occurrence the deceased, Aithappa Poojary, and the accused and one Koragappa Poojary, all three belonging to Mangalore, were often to be seen together in the village of Neermarga (about eight miles from Mangalore) where they used to frequent P. W. 1's tea shop which is by the side of the road on the top of a hill. What business they had there, there is no evidence, but it is not difficult to guess. For, the talk was that they were trading in illicit arrack. And the evidence of P. W. 7, the Prohibition Sub Inspector having jurisdiction over the area, shows that Neermarga was a hot-bed of distillation and was a source of supply to Mangalore Town. That the accused was dealing in arrack is clear from the fact that on 26-9-1952 P. W. 7 caught him while he was bringing 15 bottles of arrack in an air pillow to Mangalore. He was arrested and released on bail to appear before Court on 3-10-1952 but on that day he failed to appear. 40

3. At about 10. 30 a. m. on 4-10-1952 the accused and the deceased and Koragappa went to P. W. 1's tea shop for tea. While they were having their tea, they were talking of some prohibition case, and when they left the tea shop after having had their tea, the discussion became very heated and assumed the shape of an altercation. The accused was charging the deceased with having got him caught in the prohibition case and the deceased was denying the charge. Koragappa tried to pacify the accused by saying that he and the deceased would somehow or other help him out of the case. But the deceased was obstinate in his denial and said that he knew nothing about the prohibition case and could do nothing to help the accused. Thereupon the accused drew the dagger, M. O. 1, from his waist saying, "I am going to jail in any case. I shall kill you and go." P. W. 4, a customer in the tea shop, went and caught hold of the accused by his hand and dragged him away northwards to a distance of about half a furlong. There the accused shook himself free and assured P. W. 4 that he had drawn the dagger only as a gesture and had no intention of using it. Satisfied with this assurance P. W. 4 got down the hill to go to his house while the accused proceeded southwards.

4. Meanwhile the deceased and Koragappa had engaged themselves in a scuffle and had gone across the road in front of P. W. 1's tea shop pushing and pulling each other. The accused came running towards them and stabbed the deceased on his head and on his left flank with his dagger. The deceased dropped down dead (the autopsy done by P. W. 8 the next morning showed that, apart from two incised wounds on the head, he had suffered a gaping incised wound on the left flank which had pierced through the lung and the heart, a necessarily fatal wound which must have caused more or less instantaneous death—see the post-mortem certificate, Exhibit P2) and the accused and Koragappa ran away southwards, the accused taking his dagger with him.

5. Apart from P. W. 1, his brother P. W. 2 who works with him in the tea shop, the tailor P. W. 3 whose shop is in the same building, P. W. 5 a customer in the tea shop, and P. W. 6 who happened to be passing that way from his house to his betel vine garden saw the entire occurrence which took place right in front of the tea shop. P. W. 3 went to report the matter to the Patel who lives two miles away. The Patel was not at home and P. W. 3 proceeded to the Mangalore East Police Station 8 miles away where, at 3 p. m., he made the statement, Exhibit P1, on which the case was registered and investigation begun.

6. On 6-10-1952 the accused got a lift in P. W. 9's lorry from Padil on the outskirts of Mangalore to Arkula 8 miles away where he was arrested by the police constable, P. W. 12, later in the day. When P. W. 9 reached his destination and unloaded his lorry, he found the dagger, M. O. 1, in the back of the lorry where the accused had been seated. He kept the dagger in his tool box. On 10-10-1952, on information furnished by the accused, P. W. 9 was traced and questioned by the Head constable, P. W. 13. He produced M. O. 1 from his tool box and P. W. 13 seized it.

7. The accused denies the offence. It is true that some months before the occurrence he was in the habit of going to Neermarga for drink. But he went by himself and never in the company of the deceased or Koragappa – in fact he did not know the deceased and had never seen him. P. Ws. 4 and 6 used to supply him with arrack and on that account he owed them money. About two months before the occurrence they came to Mangalore and demanded the money. He was unable to pay. They left threatening him with dire consequences if he did not pay within a week. Because he failed to pay, P. Ws. 4 and 6 have engineered this false case against him with the help of their friends and neighbours P. Ws. 1, 2, 3 and 5.

8. The accused has no witnesses to examine in his defence.

9. Of the four assessors two are of opinion that the accused is guilty of murder, one that he is guilty of culpable homicide not amounting to murder and the remaining assessor that he is innocent.

10. P. Ws. 1 to 6 are more or less strangers to the accused and have no reason to speak falsely against him and the accused's case that they have concocted a false case of murder against him merely because he owed P. Ws. 4 and 6 some money is fantastic. The suggestion made in the course of the argument, that they might be speaking falsely in order to screen Koragappa, who must have been the real offender, is equally unacceptable, for Koragappa was likewise a stranger to them and there is no reason why they should think of saving Koragappa at the expense of the accused. These witnesses, of whom all but P W. 4 are eye-witnesses to the actual stabbing, have given a consistent and convincing account of what took place. The occurrence was at about 11 or 11.30 a. m. and within four hours thereof P. W. 3 had appeared at the Police Station eight miles away (after a fruitless search for the Patel) and made the statement, Exhibit P1, giving the same account of what took place as is now spoken to by the witnesses from the box. All that can be said against the prosecution evidence is that Exhibit P1 does not mention the presence of P. Ws. 5 and 6. But then it was a statement made by a disinterested person regarding what he himself saw and the need of naming the other witnesses present might not have occurred to him. P. Ws. 5 and 6 (like the other eye-witnesses) were examined by the police at the inquest held that very evening and I see no reason for thinking that they are witnesses subsequently got up merely because they are not named in Exhibit P1. Even if their evidence is to be viewed with some degree of caution, there is still the evidence of P. Ws. 1, 2 and 3 which there is no reason whatsoever to disbelieve.

11. There can be no doubt that the accused stabbed the deceased with a dagger and thereby caused his death. In stabbing him in a vital part of the body with such force as to cut through the lung and reach the heart the accused's intention must have been to cause his death or at least to inflict bodily injury sufficient in the ordinary course of nature to cause death. The accused is clearly guilty of murder and I can think of no circumstance which will serve to reduce his offence or even to mitigate the sentence that has to be awarded to him. It was a deliberate, though perhaps not a preplanned murder, after P. W. 4 by taking the accused away had given his temper a chance of cooling down. There was no grave and sudden provocation, no exercise of the right of private defence and no sudden fight or heat of passion upon a sudden quarrel.

12. I convict the accused under section 302 I. P. C. Subject to confirmation by the High Court I sentence him to be hanged by the neck till he is dead.

13. The accused is informed that if he wishes to appeal he must do so within seven days.

Dictated to the shorthand writer, transcribed by him and pronounced in open Court, this, the 4th day of February 1953.

(Sd.) P. T. RAMAN NAYAR,
Sessions Judge.

N. B. The accused will be lodged in the Central Jail, Cannanore.

APPENDIX.

THE FOLLOWING WITNESSES WERE EXAMINED:

FOR PROSECUTION.

1. Sri Chandappa.
2. Sri Narayana.
3 Sri Babu Belchada.
4. Sri Alphonso Minezes.
5. Sri Francis Minezes.

6. Sri Gregory Minezes.
7. Sri Iqbal Hussain Khan (Prohibition Sub Inspector).
8. Dr. E. S. Jacobs (Civil Assistant Surgeon, Government Headquarters Hospital, Mangalore).
9. Sri Imanuel Bangera.
10. Sri G. Seetharama Rao (P. C. 282).
11. Sri Ramakrishna (P. C. 145).
12. Sri K. Narayana (P. C. 435).
13. Sri P. V. Louis (S. B. H. C. 379).
14. Sri M. Govinda Menon (Circle Inspector of Police).
15. Sri Balakrishnan Nayar (Sub Inspector of Police).

FOR DEFENCE.

None.

THE FOLLOWING EXHIBITS WERE FILED:

FOR PROSECUTION.

P1.	4-10-1952.	Statement of P. W. 3, Sri Babu Belchada, recorded at the Mangalore East Police Station by the Station Writer, P. W. 10, on F. I. R. 80 of 1952 of the station.
P2.	5-10-1952.	Postmortem certificate issued by Dr. E. S. Jacobs, P. W. 8, on examination of the corpse of the deceased, Aithappa Poojary.
P3.	22-12-1952.	Eye-sketch of the scene of offence prepared by the Circle Inspector of Police, P. W. 14.
P4.	22-12-1952. } 24-12-1952. }	Statement of the accused in the committal Court.

FOR DEFENCE.

Nil.

MATERIAL OBJECTS MARKED.

1. A dagger.

(Sd.) P. T. RAMAN NAYAR,
Sessions Judge.

No. of words 2146.

True Copy

Sessions Judge. 4/2

3

R.T. 32/53

Srinivas Printing Works, Mangalore.

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Thursday the twenty first day of April
One thousand nine hundred and fifth three.

Present:

The Honourable Mr.Justice Rajagopalan.

and

The Honourable Mr.Justice Balakrishna Ayyar.

Referred Trial No. 32 of 1953.

Vasu Ramagara .. Prisoner.

Trial referred bythe court of session ofthe South Kanara division for confirmation of the sentence of death passed upon the said prisoner in Case No. 2 of the Calendar for 1953, -dated on 4-2-1953.

Criminal Appeal No. 110 of 1953.

Appeal by the prisoner against the said sentence of death passed upon him in the said case.

The case coming on forhearing the court delivered the following

JUDGMENT.

(Judgment of court delivered by Rajagopalan J.).

The accused was convicted under section 302 I.P.C., of having murdered Nitrapa Poojary, by inflicting injuries onhim with a knife on 4-10-1952 at about 11-30 a.m. at Koorsarga village, in front of the tea shop of P.W.1. Two of the injuries were on the head. The third was on the left flank and it pierced the lung and the heart. Death, as was certified by the Medical Officer, should have been instantaneous.

The case

6

-7-

2 The case for the prosecution was that for about six months before 4-10-1952, Aithappa, Koragappa and the accused were frequently found at the shop of P.W.1. There was a suggestion that all the three should have been engaged in trade in illicitly distilled arrack, but there was no proof of that. On 26-9-1952, P.W.7 arrested the accused, who was then found in possession of fifteen bottles of illicitly distilled arrack. The accused was released on bail to appear before the magistrate on 3-10-1952, but the accused failed to appear that day in court.

3 On 4-10-1952 the accused, Aithappa and Koorakappa came to the shop of P.W.1 at about 10-30 a.m. P.W.2, a brother of P.W.1, was also in the shop. After they had taken their tea, the accused, Aithappa and Koragappa came out to the verandah, where there was an altercation between them. The accused charged Aithappa with having given information to the prohibition authorities which led to the arrest of the accused, but Aithappa denied the charge. Koragappa tried to pacify them and assured the accused that both he and Aithappa would help the accused, but Aithappa intervened and said that he could do nothing to help the accused. The accused whipped out the dagger, M.O.1, which he had at his waist, and threatened to kill Aithappa P.W.4, who had meanwhile come

out of

outer the shop intervened and led away the accused. The accused promised P.W. 4 that he intended no harm. Meanwhile Koragappa and Aithappa had gone into the street struggling with each other. The accused rushed back and inflicted injuries on the head and on the flank of Aithappa. Aithappa dropped down dead. Koragappa and the accused fled the scene.

4 P.W. 4 left the scene of occurrence after the he had led the accused away from the tea shop of P.W.1. P.W. 1, 2, 3, 5 and 6, swore they witnessed the accused with stab the deceased.

5 The accused was arrested on 6-10-1952 when he was travelling in the lorry driven by P.W. 9. P.W.9 testified that after the accused had been taken away, P.W.9 found the dagger, P. 1, in the lorry. That was recovered by the police on 14-10-1952 from P.W. 9. There was nothing to indicate whether there were any traces of blood on P.O.1 when it was eventually recovered.

6 The accused's plea was one of denial. He denied he even knew the deceased Aithappa. The accused suggested that there had been a previous quarrel between him and P.W.4. When P.W.4 demanded money from the accused for arrack supplied to the accused by P.W.6. The accused suggested that P.Ws. 4, and 5, and 6 who were related to each other, suborned the evidence of P.W.1, 2, and 3 and foisted the false charge against the accused.

It was

7 It was P.W. 3 who gave the first report to the police, Ex.P.1, at the Mangalore police station. He had to go to Mangalore, because the village patil was absent.

8 The learned Sessions Judge accepted the testimony of P.Ws.1 to 6 and that of apparently disinterested witnesses. There was a consistent story. No doubt in Ex.P.1 there was no specific reference to P.Ws. 5 and 6, but P.Ws. 5 and 6, it should be remembered, arrived at the scene of occurrence subsequent to P.W. 4's entry into the tea shop. The failure to refer to P.Ws. 5 and 6 in no way militates against the truth of the case of the prosecution,, that P.Ws. 5 and 6 also witnessed the occurrence.

9 On the evidence on record the learned Sessions Judge rightly convicted the accused under section 302 I.P.C. There were certainly no mitigating circumstances. We confirm the conviction of the accused under Section 302 I.P.C. as also the sentence of death passed upon the accused by the learned Sessions Judge.

(The appeal is dismissed).

(sd)V.T.Kandaswami,
Deputy Registrar, Appellate Side.

(True copy)

Sub Assistant Registrar, ~~Appellate Side~~.

To

1. The Sessions Judge South Kanara, in duplicate for communication to the prisoner(with records).
2. The Superintendent, Central Jail, Cannanore, with reference to his letter No.nil C/9-2-52, regarding convict No.5243.
3. The District Superintendent of Police, South Kanara.
4. The Public Prosecutor, Madras.
5. The Inspector General of Police, Madras.
6. The District Magistrate, South Kanara.
7. Secretary, Home Department, with two copies of printed records and Judgment. (with C.L.).

Ver.

Dated 21-4-1953.

JUDGMENT.

H.T.No.32 of 1953.

Crl. Appeal No. 110 of 1953.

Confirming the sentence of death passed on the appellant prisoner in South Kanara division Sessions Case No.2 of 1953 and dismissing the appeal.

Sessions Case No.2 of 1953.

DESCRIPTION OF ACCUSED:

Name:	VASU SAMAGARA.
Father's Name:	GOPALA SAMAGARA.
Caste or Race:	SAMAGARA - HINDU.
Occupation:	Samagara (Shoemaker)
Residence:	BIKKANAKATTE - Mangalore Taluk.
Age:	31 years.
Date of Occurrence:	4---10---1952.
Complaint:	do.
Apprehension:	6---10---1952.
Release on bail:	-----
Commencement of trial:	2----2---1953.
Close of Trial:	3----2---1953.
Date of Committment:	24---12---1952.

EXPLANATION

EXPLANATION FOR DELAY:

15

Charge sheet was received on the file of the Stationary Sub Magistrate, Mangalore, on 21-10-1952 and the case was posted to 3.11.1952 provisionally as the properties had to be sent to the Chemical Examiner. On 3.11.1952 the case was again adjourned to 11.11.1952. On 11.11.1952 P.Ws.1 to 6 were examined and the case was adjourned to 19.11.1952 for further inquiry. On 19.11.1952 as the Assistant Public Prosecutor, Grade I, had gone to Madras the case was adjourned to 28.11.1952. P.Ws.7 to 12 were examined on 28.11.1952 and the case was adjourned to 8.12.1952 and again from 8.12.52 to 18.12.52 as one of the witnesses was confined after child-birth and was unable to move above. P.Ws.13 and 14 were examined on 18.12.52 and P.Ws. 15 and 16 on 22.12.1952. On 22.12.1952 the accused was also questioned. He was committed to this court for ~~trial~~ trial, on 24.12.1952.

In

14

In this court the case was posted to 19.1.1953 for ~~trial~~ trial. It was reposted to 2.2.1953 as the committing Magistrate reported that the doctor who held the post mortem examination would not be available from the 19th to the 24th since he had to attend the Court of Session at Cuddapah.

Court of Session, S.Kanara.
MANGALORE
10th February 1953.

(Sd.) P.T.Raman Nair,
Sessions Judge.

R.T. 32/53

SV.

15

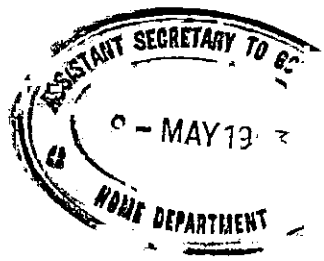
Very Urgent.

No. C1/6627/53.

Office of the
Dt. Supdt. of Police, S.K.,
Mangalore, d/-6-5-53.

From

Sri N. Ramaiah,
Dt. Supdt. of Police,
South Kanara,
Mangalore - 1.



To

The Secretary to the Government of Madras,
Home Department,
Fort St. George,
MADRAS.

98827
9.5.53.

Sir,

Subject:- Petition for mercy - condemned prisoner No. 5243 Vasu Samagara-Central Jail, Cannanore - South Kanara S.C. No. 2/53 - C.A.No. 110/53 before the High Court of Judicature, Madras - Certified copies of Case Diary file - forwarded.

Reference:- 1) Judgement dated 21-4-53 of the High Court of Judicature, Madras in Referred Trial No. 32/53.
2) G.O. Ms. No. 4290, Home, dated 8-11-51.

***

With reference to the Judgement of the High Court of Judicature, Madras, cited Ist above, 2 certified copies of the Case Diary file in Mangalore East Police Station Crime No. 80/52 under section 302 I.P.C. are forwarded herewith. Their receipt may kindly be acknowledged.

N Ramaiah
Dt. Supdt. of Police,
South Kanara.

Enclosures:- 2 copies of Case Diary file.

MKP/6/5.

Home Department.

Memo. No. 97881 Cts.I/53- 1, dated 13/5/53

Petition for mercy - Condemned prisoner No.5243, Vasu Samagara - C.J., Cannanore - South Kanara S.C. No. 2/53 - C.A. No. 110/53 and R.T. No. 32/53 on file of High Court - Copies of English translation of police diary - Receipt - Acknowledged.

Ref: From the D.S.P., South Kanara, No.C1/6627/53, dated 6.5.53.

The receipt of two copies of the English translation of the police diary in the case mentioned above, forwarded with the letter cited, is acknowledged.

To the D.S.P., South Kanara,
Mangalore-1.

NOTE:

The draft memo. above is with reference to the D.S.P's. request at X on p.15 c.f. and is for approval. After issue, the petition for mercy may be awaited.

(R.D. 25.5.53)

PETITION FOR MERCY - URGENT.

No.R.15/ 2292 /53

Office of the Superintendent, Central Jail, Cannanore, Dated 18-5-1953.

From

Sri.K.P.R. Menon, Superintendent.

To

The Secretary to Government, Home Department, Madras.

ASSISTANT SECRETARY TO GOVERNMENT
19 MAY 1953
HOME DEPARTMENT

Sir,

Sub:- Jails - Central Jail, Cannanore - Condemned Prisoner No.5243 Vasu Samagara - Petition for Mercy - Submitted

****

I submit herewith a petition for mercy in English in duplicate from Condemned prisoner No.5243 Vasu Samagara addressed to the Governor of Madras and the President of Indian Republic. He was sentenced to death in S.C.No.2/53 on the file of the Sessions Judge, South Kanara and the conviction and sentence was confirmed by the High Court of Judicature at Madras in Rt.No.32/53 and CA 110/53 dated 21-4-53.

The execution of the prisoner has been fixed for 2nd June 1953 and I hereby certify that it will not be carried out until the receipt of the orders of the Government on the mercy petition.

The nominal roll of the prisoner in duplicate is enclosed.

[redacted] 10672 19.5

H. Shamsudheen
Superintendent i/c.

Enc:-

1. Petition in duplicate.
2. Nominal roll in duplicate.

FORM No. 52. (*See* Rule 879, Part I of Vol. II, M.P. and R.M.) Judl. (Jail II)-13. 19.000—11—6—52.

Condemned

NOMINAL ROLL OF MALE* CONVICT No. 5243 A.

Name Vasu Samagara S/o Gopala Samagara.

Residence (Village, Taluk and District). Bellthangadi, Puttur, South Kanara.

Caste Hindu, Present age 31 years, Occupation Cobbler.

Section and Code under which imprisoned. See 302 I.P.C.

Original sentence of order and date. Death on 4.2.53

Adjudicating Court and Calendar number of case. Sessions Judge South Kanara in S.C 2/53

Unexpired term of sentence after deducting remission earned. ——— year (s) ——— Month (s) ——— Day (s),

Present state of health and fitness to undertake a journey † IH.

Result of appeal (if any) Dismissed on Rt 32/53 & CA 110/53 dt 21.4.53 by the High Court, Madras.

Conduct in Jail Good.

Personal and descriptive marks§ 1) Black mole outer third of left collar bone

2) Black mole 1" below the inner third of left collar bone

Remarks Class - C, Diet - Rice, Task - A

* Strike out and add " Female " when necessary.

† After the prisoner's number, add his class A or B, according as he is classed as a Casual (and whether Star) or Habitual, respectively, and after the letter, add the number of previous convictions, thus—No. 3742 B-2.

‡ When a journey is about to be undertaken by a prisoner, the roll is to be signed by the Medical Officer.

§ Personal and descriptive marks are to be given when (1) rolls accompany prisoners transferred (2) police assistance is sought for the recapture of an escaped prisoner (Rule 549, Part I of Vol. II, M. P. and R. M.)

Cannanore Sub-Jail,
18 : 5 : 1953

H. S. Chamberlayne
Superintendent,

To
His Excellency the Governor of Madras, and
The President of the Indian Republic.

Through
The Superintendent, Central Jail, Cannanore.

Most respectfully showth,

That your Excellency's humble petitioner, Vasu Samagara, a condemned prisoner No.5243 confined in this prison beg to submit as follows:-

That he was convicted under section 302 I.P.C. and sentenced to suffer death penalty by the learned Sessions Judge of South Kanara on 4th February, 1953 and that it has been confirmed by the honourable High Court of Madras on 21st April, 1953.

That when he looked back on the circumstances which have led him to this pitiful plight, he is ever on the stool of repentance. The realization of the fact that he has been the instrument of causing such a henious act overwhelms him with remorse.

That on that particular day of occurance he had gone to the Tea Shop and there he was entertained to the alcoholic drinks (Arack) by his friends and the absconding Koregappa Pujari and the deceased two was drinking in the company. That sometime later they have left the Tea Shop and assembled on the road. They were drunk & disorderly and there were lots of loose talks and heated arguments and tempers were running high and in the excitment of the movement he does not know what has happened. It was nothing but a durnken orgy. There was no plan or premeditation whatsoever to infringe the law.

That he is a married young man of 30 years and his wife is only 20 years with two small children and he was the sole support and bread winner of those unfortunate innocent beings and their anguish and lamentation for husband and father, guide and guardian has cast a gloom over their unfortunate lives.

That his aged parents have always looked to him for their support and he was the only sure haven and consolation for them at their riped old age. They are loyal and dutiful citizens

of.....

of their government and country and in the past, in the service of their present (Congress) government and the love of their country had to suffer often under the alien rule which had then darkened their motherland. That he is realizing the gravity of his intemperate act and the folly of bad association that led him to this unenviable position. That he is full of repentence and solemnly promise Your Excellency that in future he shall always keep within the law and never associate such so called friends and become a useful member of the society. So, may God help him to keep his promise.

That he fervently beg crave your August Excellency, to show him mercy not only on his behalf but also on behalf of his unfortunate wife and small children of tender years and his aged parents.

That it has been the basic ideal of the father of the nation and the founder of this great republic, that all the animate beings should ~~should~~ have peace and joyousness and he himself had always shown infinite tenderness for all that breathes and compassion for all that suffers. That Your Excellency's benevelant Government is epitomising those ideals for the commonweal.

That he has erred at a movement of ~~drunken~~ drunken fury and passion roused by the alcoholic drink. It is human to err and people with sound minds and normal faculties at times, do give into sudden frenzy and perpetuats acts which they in normal circumstances would abhor with utmost contempt. That is the common nature with which all human beings are endowed by their Creator.

That now, to deprive him of his life will not compensate the deceased and nor will it be a consolation to the living and it will only add to the tragedy, but mercy and grace shown by Your Excellency, to allow him to live and live in captivity, repenting day and night for his folly would indeed give him immense relief. That it would also be a boon to his unfortunate family as of the lifting of a heavy weight which has been oppressing them and about to crushed them even unto death.

.....That

That he has nothing to urge beyond the facts stated above and that now penetantly prey Your Excellency to show him Your Excellency's benign prerogative to let him live - live in perpetual repentence in captivity as Your Excellency may deem suitable and that for this act of mercy, grance and compassion, he shall always unto his death remain full of grateful gratitude.

Your Excellency's humble petitioner,
No.5243, Vasu Samagara.

Certified that the contents have been translated in his vernacular & explained to him and acknowledged by him to be correct.

H. Shamanna Hegde
Superintendent, C
Central Jail, Cannanore.

Vasudeva's petition for Mercy
URGENT.

I

Home Dept. I-21—302—27-5-47. 29

HOME DEPARTMENT.

Abstract.

Petition for Mercy.

P19 C.P. *Reference.*—Letter from the Superintendent of the Central Jail, Cannanore, no. R.15/2292/53, d. 18-5-53.

Memo. No. 97881/C5 D/53-5, dated 9.7.1953.

Having considered the circumstances of the case set forth in the foregoing paper, ~~His Excellency~~ the Governor of Madras sees no reason to interfere with the sentence of death passed on Convict No. 5243, VASU SAMARARA.

(President of India

2. The petition will be forwarded to the ~~Secretary to the Governor-General~~ and the execution of the prisoner should be postponed until the receipt of the orders of the ~~Governor-General~~ President.

Rec 9.7.53

9.7.53

By order,

To the Superintendent of the Central Jail, Cannanore.

P.T.O.

10/7/53.

30

II

Home Dept. I-22—302—27-5-47.

HOME DEPARTMENT.

Express Letter / Reference No. 97881 Cls. I/53-6, dated 9.7.53

To

The Secretary to the Gover~~nor General (Public)~~, ~~nment~~s of India, Ministry of Home Affairs, New Delhi / ~~Simla~~

(with records and copy of pages 1-6 only and the Statement at (K).)

SIR,

In accordance with instruction III of the instructions for the submission of petitions for mercy, I am ~~directed~~ to forward for the orders of the ~~Governor General~~ the accompanying petition addressed to the ~~Provincial~~ Government and to ~~His Excellency~~ the President of India by Convict No. 5243, VASU SAMAGARA,

1. Petition with translation.
2. Nominal roll.
3. Records of the case (duplicate set).
4. Copy of summary of the case.

~~Governor General by Convict No.~~

confined in the Central Jail, CANNANORE, praying for the remission of the sentence of death passed on him by the Sessions Judge of South Kanara and confirmed by the High Court of Judicature at Madras.

2. This Government have considered this petition but have seen no reason to differ from the finding of the High Court. A copy of the summary of the case prepared for the use of ~~His Excellency the Governor is attached.~~ His Govt. and a Statements

They have no recommendation to make on behalf of the convict.

3. The execution will not take place until the orders of the ~~Governor General are received.~~ President of India are received.

4. P.

PS 9.7.53

RS 9.7.53

End.

Hd (Mercy Petn) to President of India 10/7/53

Pp 1-6 only. Showing all the relevant dates in the case are attached. K)

Petition for Mercy - Urgent

31

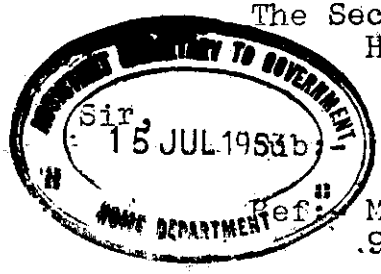
No.R.15 / 3337/53. Office of the Superintendent, Central Jail, Cannanore dated 13-7-53.

From

Sri. K.P.R.Menon, Superintendent.

To

The Secretary to Government,
Home Department, Madras



Sir,

Sub: PETITION FOR MERCY.

Ref: Memorandum No.97881 Courts 1/53-5 Home Department dated 9-7-53.

The receipt of the above communication is hereby acknowledged.

C3

196732

Superintendent.

Copy submitted to the Inspector General of Prisons, Madras together with a copy of the Government Memorandum No.97881 Cts.1/53 -5 dated 9-7-53.

EXPRESS LETTER. REGISTERED.

No.32/118/53-Judl.
Government of India
Ministry of Home Affairs

From

Shri Gulzar Singh, M.A.,
Assistant Secretary to the Government of India.

To

The Secretary to the Government of Madras,
Home Department, Madras.

New Delhi-2, dated the 30th July 1953.

Your letter No. 97881 Courts I/53-6 dated the 9th July 1953. The President of India declines to interfere on behalf of Vasu Samagara under sentence of death in the Central Jail Cannanore. Petitioner may be informed accordingly.

2. Records are returned herewith.

157397

Gulzar Singh
(Gulzar Singh).
Assistant Secretary to the Government of India.

Three
~~Two~~ DRAFTS.

I.

35

Home Dept. I-23—302—27-5-47.

HOME DEPARTMENT.

Petition for mercy—~~Governor-General~~ President's refusal to interfere—Communicated—C.J., Cannanore-Condemned prisoner No. 5243, Vasu Samagara.

C. No. 97881 Cts. I/53. From the ~~Deputy~~ Asst. Secretary to the ~~Government of India~~, Govt. of India, Ministry of Home Affairs, No. 32/118/53-Judl., dated 30.7.53.

Order—R. No. 2783, dated 5-8-53

The ~~Governor-General~~ President of India has declined to interfere with the sentence of death passed on condemned prisoner No. 5243, Vasu Samagara,

confined in the Central Jail, Cannanore.

To the Superintendent, Central Jail, Cannanore.

" with reference to letter No. B.C. 185/53, dated 1.5.53 and C.A. No. 110/53 (R.T. No. 32/53)

" Sessions Judge, South Kanara (Ref. S.C. No. 2/53)

Copy to the Inspector-General of Prisons, Madras.

Regr., High Ct.,

P.T.O.

II.

Home Dept. I-24—302—27-5-47

GOVERNMENT OF MADRAS.

HOME DEPARTMENT.

Express Letter, R. No. 2784 , dated 5 8.53

To

The Secretary to the ~~Government of India~~ Govt. of India,
Ministry of Home Affairs, New Delhi

Sir,

Condemned prisoner No. 5243, Vasu Samagara.

Reference.—Express Letter No. 32/118/53-Judl., dated 30.7.53, ~~xxxxx~~ from the ~~Deputy~~ Asst Secretary to the ~~Government of India~~ Govt. of India, Ministry of Home Affairs.

I am directed to acknowledge receipt of the Express Letter quoted above stating that the President of India has declined to interfere on behalf of prisoner No. 5243, Vasu Samagara, under sentence of death in the Central Jail, Cannanore.

Yours faithfully,

~~for Secretary to Government~~

P.O.

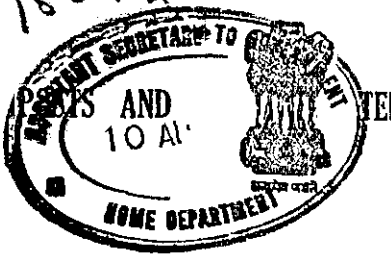
C. 3

9788/2751

C056

37

INDIAN POSTS AND TELEGRAPHS DEPARTMENT



162298

No. 6/8

Received here at——H.——M. 10 AM

GK CANNANORE 10 STE 45 MADRAS HOME MADRAS

CONDEMNED PRISONER 5243 VASU SAMBARA CONCERNED

IN S C 2/53 OF SESSIONS SOUTH KANARA AND CONFIRMED

IN R T 32/53 BY HIGHCOURT EXECUTED THIS MORNING THE

PRESIDENT OF INDIA DELCINED G O R 2783 HOME DATED FIF.

AUGUST = CENTRAL JAIL=

1935 ame

The sequence of entries at the beginning of this telegram is—class of telegram, time handed in serial number (in the case of Foreign Telegrams only), office of origin, date, service instructions (if any), and number of words.

This form must accompany any inquiry respecting this telegram.

MAP—5/6/48 P.C. 68 P & T—5173/OP—490 P & T—24. 9. 51.—1,50,000 Books.

FORM No. 52. (*See* Rule 879, Part I of Vol. II, M.P. and R.M.) Judl. (Jail II)-13. 19.000—11—6—53.

NOMINAL ROLL OF MALE* CONVICT No. 5243 A.

Name Vasu Samagara S/o Gopala Samagara.

Residence (Village, Taluk and District). Bellangadi, Puttur, S. Kanara.

Caste Hindu, Present age 31 years, Occupation Cooley.

Section and Code under which imprisoned. 302 I.P.C.

Original sentence of order and date. Death on 4.2.53.

Adjudicating Court and Calendar number of case. Sessions Judge S. Kanara S.C. 2/53

Unexpired term of sentence after deducting remission earned. Executed on 10.8.53 year (s) Month (s) Day (s),

Present state of health and fitness to undertake a journey †.

1) Remitted in M. 32/53 & CA. 110/53 dt 21.4.53 by High Court Madras 2) the Govt of Madras declined to interfere with the sentence

Result of appeal (if any) Hanumappa Vs. 1978 & 1 Cr. Appl 1/53-5 dt 9.7.53. 3) the President of India declined to interfere in G.O. R 2763 Home Dept. dt 5.8.53

*Conduct in Jail Good

Personal and descriptive marks§ 1) Black mole below third of left collar bone

2) Black mole 1" below the inner third of left collar bone

Remarks Cell-C, Diet-Rice, Feeder-B.

---

* Strike out and add "Female" when necessary.

† After the prisoner's number, add his class A or B, according as he is classed as a Casual (and whether Star) or Habitual, respectively, and after the letter, add the number of previous convictions, thus—No. 3742 B-2.

‡ When a journey is about to be undertaken by a prisoner, the roll is to be signed by the Medical Officer.

§ Personal and descriptive marks are to be given when (1) rolls accompany prisoners transferred (2) police assistance is sought for the recapture of an escaped prisoner (Rule 549, Part I of Vol. II, M. P. and R. M.)

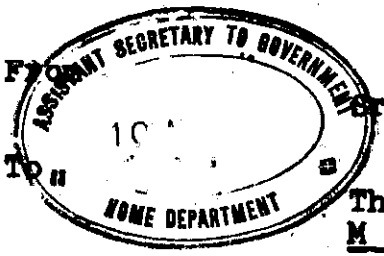
Banaruca JAIL,
10-8-53 19

Superintendent,

Petition for Mercy - Urgent -

No.R.15/ 3821/53

Office of the Superintendent, Central Jail, Cannanore, D/7-8-1953



From Sri.K.P.R. Menon, Superintendent.

To The Secretary to Government, Home Department,
M A D R A S.

Sir,

Sub:- PETITION FOR MERCY - President's refusal to interfere - communicated - Central Jail, Cannanore - Condemned prisoner No.5243, Vasu Samagara.

Ref:- G.O.R. No.2783 Home Department D/ 5th August 53
[redacted] ********** xxxxxxxxxxxx

I hereby acknowledge receipt of the above Government Order.

Superintendent.

Copy submitted to the Inspector-General of Prisons, Madras.

mvr.

40

Home Department

The telegram on page 1 and the letter on page 3 ante from the Supdt C.S. Ramnamore, are submitted for perusal.

The main file with a Lyers Note as seen by P.W.C.S.&P. is in circulation.

The papers may be added to the main file on its return from the circulation.

11/8/53 12/53

11.12.1953

PETITION FOR MERCY.- VERY URGENT

C.F. 72 (a)—14.29.016—5-10-51

Jail Department

Received _____ Registered _____

From (Name) Sri V.Hanumanta Rao, I.A.S.,

Designation Inspector-General of Prisons,

Station Madras.

To

The Secretary to Government,
Home Department,
Madras.

9781

Enclosures No. 108/S5/53 dated 11-8-53. 195

ASSISTANT SECRETARY TO GOVERNMENT
12 AUG 53
HOME DEPARTMENT

Sub: PETITION FOR MERCY - President's refusal to interfere - Communicated - Central jail, Cannanore -Condemned prisoner No.5243,Vasu Samagara

Ref: G.O.R.No.2783, Home,dated 5th August 53.

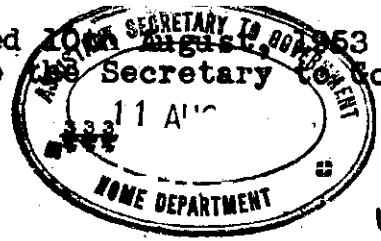
The receipt of the G.O.cited above is hereby acknowledged.

16134

FOR INSPR.GENL.OF PRISONS

TMS/11-8-53.

Post copy of telegram dated 10th August, 1953 from the Superintendent, Central Jail, Cannanore to the Secretary to Government, Home Department, Madras.



43

EXPRESS

STATE

MADRAS HOME
MADRAS

CONDENMED PRISONER 5243. VASU SAMAGARA CONCERNED IN S.C.2/53 Of SESSIONS SOUTH KANARA AND CONFIRMED IN R.T.32/53 BY HIGHCOURT EXECUTED THIS MORNING. THE PRESIDENT OF INDIA DECLINED G.O.R. 2783 HOME DATED FIFTH AUGUST

163758

CENTRAL JAIL

No.R.15/3822/53 dated 10th August, 1953

Post copy submitted to the Secretary to Government, Home Department, Madras, in conformation together with a nominal roll of the prisoner.

Superintendent.

Copy submitted to the Inspector General Of Prisons, Madras, with a nominal roll of the prisoner.

47

III.

Home Department.

PRESS NOTE. 128. d:14-8-53

Vasu Samagara of Bikkanakatte village in Mangalore taluk, South Kanara district, who, on 4th October 1952 stabbed and killed ~~Aithappax Poojaryxofx Kadri~~ in Neermarga village, Mangalore taluk, Aithappa Poojary of Kadri and was sentenced to death by the Sessions Judge, South Kanara, on 4.2.53, was executed on the 10th August 1953, in the Central Jail, Cannanore.

C.R

49

GOVERNMENT OF MADRAS
P.W.(Information & Publicity) Department.

PRESS NOTE NO. 128, , dated the 14th August, 1953.

Vasu Samagara of Bikkanakatte village in Mangalore taluk, South Kanara District, who, on 4th October, 1952, stabbed and killed in Neermarga village, Mangalore Taluk, Aithappa Poojary of Kadri and was sentenced to death by the Sessions Judge, South Kanara, on February 4, 1953, was executed on the 10th August 1953, in the Central Jail, Cannanore.

Issued by
The Director of Information & Publicity-in-Charge,
Government of Madras.

sg.14.8.

Printed for Court.
Material object No. 1—Sent.

HIGH COURT.

REFERRED TRIAL
No. **32** of **1953.**

Criminal Appeal No. 110 of 1953.
Vasu Samagara,
Accused.

SOUTH KANARA DIVISION.

Records
in
S.C. No. 2 of 1953.

To be heard on

PRINTED AT THE GOVERNMENT PRESS, MADRAS.

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IN THE COURT OF SESSION, SOUTH KANARA DIVISION.

Sessions Case No. 2 of 1953.

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8.	Judgment (draft).	
9.	Other miscellaneous papers.	
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Charge.

IN THE COURT OF SESSION, SOUTH KANARA DIVISION.

Sessions Case No. 2 of 1953.

I, Sri P. T. Raman Nayar, I.C.S., Sessions Judge of South Kanara, hereby charge you, Vasu Samagara, son of Gopala Samagara of Bikkarnekatte of Mangalore town, as follows :—

That, you on the 4th day of October 1952, in Neermarga village did commit murder by intentionally causing the death of Aithappa Pujary, son of Nagappa Pujary of Kadri, Mangalore town, by stabbing him with a dagger and thereby committed an offence punishable under Section 302 of the Indian Penal Code, and within my cognizance.

And I hereby direct that you be tried before me on the said charge.

Dated this the 2nd day of February 1953.

(Signed) P. T. RAMAN NAYAR,
Sessions Judge.

Plea of the accused.

Plea of the accused.—" Not guilty

P.W. 1.

(2—2—1953.)

IN THE COURT OF SESSION, SOUTH KANARA DIVISION.

Sessions Case No. 2 of 1953.

Deposition of first witness for prosecution.

Name—Chandappa. Father's name—Aithappa Pujary. Village—Neermarga. Taluk—Mangalore. Caste—Billava. Calling—Hotel-keeper. Religion—Hinduism. Age—23 years.

Solemnly affirmed in accordance with the provisions of Act X of 1873 on the 2nd day of February 1953 by Sri B. Mahabala Shetty, Translator.

I run a tea shop in Neermarga, six miles from Mangalore. My brother witness Narayana works with me in the tea shop. Witness Babu Belchada runs a tailor's shop near my tea shop, in the same building.

I know the accused and the deceased and one Koragappa. The deceased belonged to Kadri and the accused and Koragappa to Bendore, both in Mangalore town. These three persons were friends and boon companions and they were often to be seen together in Neermarga. For about six months prior to the offence they used to come often together to my tea shop and have tea there. I do not know what business they had in Neermarga. From about six months before the offence I knew the three persons. I knew them very well.

The deceased was stabbed and killed on 4—10—1952 at about 11-30 a.m. in front of my tea shop. At about 10 a.m. that day the accused, the deceased and Koragappa came to my tea shop and had tea. My brother Narayana was in the tea shop then. While the accused and the deceased and Koragappa were having their tea, witnesses Allu Minezes and Francis Minezes came there for tea. While the accused and the deceased and Koragappa were having their tea they began discussing about a Prohibition case pending against the accused. Then after they had their tea they went out to the verandah of the tea shop where the discussion became very heated. In the course of this the accused was shouting to the deceased. " I do not trust you, you got me caught in the Prohibition case ". Since the discussion had by then assumed the shape of a quarrel I asked the three of them to leave my premises. They got down to the road and continued the altercation. Koragappa was trying to pacify the accused and asking him not to fight saying that he and the deceased would some how square up the prohibtion case. There upon the deceased said that he could do nothing in the matter. Immediately the accused whipped out the dagger M.O. 1 from his waist and cried out to the deceased " I am anyhow going to jail. I shall kill you and go to jail for that ". Allu Minezes went and caught hold of the accused by his hand and dragged him away northwards asking him not to make trouble. Then the deceased pulled off his shoes, shirt and banian and challenged Koragappa saying " You have brought me here to kill me. Come on, do it ". There was a scuffle between the deceased and Koragappa and they moved a few paces to the west (my shop faces west and the road run north-south) pushing and pulling each other. By then Allu Minezes had taken the accused a distance of about 100 yards. Then suddenly the accused freed himself and rushing at the deceased stabbed him twice with dagger M.O. 1, first on the head and then on the left flank. The deceased fell down. The accused and Koragappa ran southwards, the accused carrying M.O. 1, with him. When we went up to the deceased he was dead. Besides

myself and Narayana, tailor Babu, Francis Minezes and Gregory Minezes, the last named of whom was passing that way, saw the occurrence. I asked my brother Narayana to keep watch over the dead body and after sending tailor Babu to report the matter to the Patel, came to Kadri to the deceased's house and informed his wife. Then I went back to Neermarga taking the deceased's wife with me. In the evening the Police came there and held an inquest at which I was questioned. Ten days later I was shown M.O. 1 and I identified it.

Cross-examination.—The dagger used by the accused looked very much like M.O. 1 and although I cannot swear that it was M.O. 1 my belief is that it was the same dagger. I have not seen Koragappa after the occurrence. I do not know his whereabout. After the occurrence he has not come to Neermarga side. I do not know why the accused and deceased and Koragappa came to Neermarga that day. There are only two tea shops in the neighbourhood, mine and another two furlongs distant. I came to know the accused and the deceased and Koragappa only after they began coming to Neermarga. I did not know them in Mangalore. Because they were coming together frequently to Neermarga about 4 or 5 times a month, I say that they were friends and boon companions. I have not heard of any illicit distillation going on in Neermarga and do not know that witness Allu and Gregory Minezes were engaged in that trade. Francis and Gregory Minezes are related—I do not know exactly how. Allu is their uncle. I do not konw of any prohibition case against them. I do not know whether the deceased and Koragappa were addicted to drink. I am not aware of any enmity between Allu and Gregory on the one side and the accused on the other.

The altercation began in the verandah of my tea shop. Before that while the three were inside my shop having tea there was only a discussion. I did not hear what they were saying. The deceased paid for the tea and until they went out to the verandah there was no altercation. Allu and Francis come to my tea shop daily for tea. They come at all hours. Gregory comes occasionally. I do not drink. Allu and Francis are my customers. They come daily and drink tea for which they pay. But I am not beholden to them in any way. It is not true that I am giving false evidence at their instance. I am speaking only to what I saw with my own eyes.

Koragappa tried to pacify the accused and saying that he and the deceased would see to the prohibition case. He did not

say how they would help; nor did the accused ask for any particular kind of help. The accused whipped out his dagger on the deceased saying that he could not help in the prohibition case. The occurrence took place at about 11-30 a.m. not at 1-30 p.m. The stabbing took place right in front of my shop about 12 marus to the west of it. At the time of the stabbing only the persons named by me were there. Subsequently a big crowd gathered. Adjoining my shop to the north and between it and Babu's shop is a carpenter's workshop. That was closed at the time. The carpenter lives thereby himself and goes out for work. There are only three shops in that building. There are no other buildings in the immediate vicinity. There are two houses half a furlong to the south. One is of witness Gregory and another is of a Catholic woman. When the accused freed himself from Allu's grasp, Allu went away down the hill towards his house and he did not see the actual stabbing. The accused stabbed the deceased from the front. I saw him stab twice. The deceased fell down dead on the spot and did not speak at all after he was stabbed.

The day after the occurrence, (i.e., on Sunday) I came to know that the accused had been apprehened by the Police the previous night. I did not see the accused in custody but only heard about his arrest.

Re-examination:—Nil.

(Signed) Chandappa Pujary.

Taken down by me in open Court and interpreted to the witness in Kannada and acknowledged by him to be correct.

(Signed) P. T. RAMAN NAYAR
Sessions Judge.

(True copy)

P.W. 2.

(2—2—1953.)

IN THE COURT OF SESSION, SOUTH KANARA DIVISION.

Sessions Case No. 2 of 1953.

Deposition of second witness for prosecution:

Name—Narayana. Father's name—Aithappa. Village Neermarga. Taluk—Mangalore. Caste—Billava. Calling Hotel-keeper. Religion—Hinduism. Age—17 years.

Solemnly affirmed in accordance with the provisions of Act X of 1873 on the 2nd day of February 1953 by Sri B. Mahabala Shetty, Translator, District Court.

I am P.W. 1's brother and work in his tea shop. I know the accused and the deceased and Koragappa. They were coming together often to the tea shop since about five or six months before the occurrence.

The deceased was stabbed and killed on a Saturday, about 2 or 3 months back.

On that day the accused and the deceased and Koragappa came to the shop and had tea at about 10-30 a.m. After having their tea they went out to the verandah and began quarrelling there. They were talking about a prohibition case. P.W. 1 asked them to go away. They went to the road and continued the quarrel. The accused was charging the deceased with having got him caught in the prohibition case and Koragappa was trying to pacify the accused saying that he and the deceased would somehow see to the case. Thereupon the deceased said that he knew nothing about the case and could do nothing. Immediately the accused whipped out a dagger like M.O. 1, from his waist and cried out to the deceased "I am going to jail anyhow. I shall kill you and go". Then, Allu Minezes who was just going out of the tea shop along with Francis Minezes went up to the accused and taking him by his hand dragged him away towards his (Allu's) house asking him not to make trouble. Then the deceased pulled off his shoes, shirt and banian and told Koragappa "You have brought me here to kill me. Come on do it." Then the deceased and Koragappa came to grips and went to the western side of the road pulling and pushing each other. By then Allu had taken the accused about half a furlong. Suddenly the accused freed himself from Allu's grasp and rushing at the deceased stabbed him with his dagger on the head and then on the left flank. The deceased fell down dead. The accused and Koragappa ran away, the accused taking the dagger with him.

Myself, P.W. 1, Francis, Gregory and Tailor Babu saw the occurrence. Babu went to report to the Patel and P.W. 1 to inform the deceased's wife. I kept watch over the body till the Police came in the evening. The Police held an inquest at which I was examined.

Cross-examination.—The accused was wearing a shirt. I saw the dagger for the first time only when the accused drew it from his waist.

The accused and Koragappa and the deceased were inside the tea shop for about half an hour. Except Allu and Francis no other customers came there during that period. The road outside

the tea shop is a public road along which people go up and down. While the occurrence took place Gregory was coming from his house. No one else was passing by the road. Inside the tea shop I did not hear them talk about the prohibition case. But in the verandah the accused was telling the deceased that he had got him caught in the prohibition case and should help him out. The deceased was denying the charge saying that he knew nothing and could not help. The accused did not say what sort of help he wanted.

I did not know the accused before he began coming to the tea shop with the deceased and Koragappa. The deceased and Koragappa are Billavas. The accused is a Samagara (cobbler). I do not know if the deceased and Koragappa were coming to Neermarga for drink. At the time of the stabbing the deceased and Koragappa had no weapons with them. The scuffle between the deceased and Koragappa lasted for about 15 minutes. They did not beat each other but were only pushing and pulling each other. No one tried to separate them but we were asking them not to fight. After the accused freed himself from Allu's hands, Allu went away towards his house and did not see the actual stabbing. I do not know whether Allu and Gregory were engaged in illicit distillation of arrack or whether there was a prohibition case against them. I am a Billava.

The deceased was a bigger build and was stronger than the accused. Gregory comes daily to our tea shop for teas. So also Francis and Allu. It is not true to say that Allu and Gregory have asked me to give evidence. I am stating what I saw with my own eyes.

Re-examination.—Nil.

(Left thumb-impression of) Narayana.

Taken down by me in open Court and interpreted to the witness in Tulu and acknowledged by him to be correct.

(Signed) P. T. RAMAN NAYAR,
Sessions Judge

(True copy)

P.W. 3.

(2—2—1953.)

IN THE COURT OF SESSION, SOUTH KANARA DIVISION.

Sessions Case No. 2 of 1953.

Deposition of third witness for prosecution.

Name—Babu Belchada. Father's name—Appayya Belchada. Village—Bandanthila. Taluk—Mangalore. Caste—Belchada. Calling—Pailen. Religion—Hinduism. Age—25 years.

Solemnly affirmed in accordance with the provisions of Act X of 1873 on the 2nd day of February 1953 by Sri B. Mahabala Shetty, Translator.

I am a tailor. My shop is in the same building as P.W. 1's tea shop.

I know the accused, the deceased and Koragappa since about five or six months before the occurrence. They were often coming to P.W. 1's tea shop for tea and I used to see them there.

The deceased was stabbed on 4—10—1952 at about 11-30 a.m. I was in my shop then.

The accused and the deceased and Koragappa came together to P.W. 1's tea shop at about 10-30 a.m. After some time they came out and there was an altercation between them in the verandah of the tea shop. P.W. 1 asked them to go away and they got down to the road and continued the altercation. Then I saw a dagger like M.O. 1 in the accused's hand. Allu Minezes came out of the tea shop and catching hold of the accused by his arm took him away about half a furlong northwards. A scuffle then ensued between Koragappa and the deceased in the course of which they moved across the road pushing and pulling each other. The accused freed himself from Allu's grasp and rushing at the deceased stabbed him in the left flank with his dagger. I saw only one stab. The deceased fell down dead and the accused and Koragappa ran away southwards, the accused taking the dagger with him. Besides myself, P.Ws. 1 and 2 and Francis and Gregory Minezes were there at the time of the stabbing. When we went up to the deceased we found that he was dead. I went to the Patel to make a report. His house is about 2 miles south-east of the scene. The Patel was not at home and so I came to Mangalore and went to the Police station and made a report which the station writer recorded. Exhibit P-1 is that report. The station writer read it

over to me and I signed it after satisfying myself that it was correct. It was about 3 p.m. when I made the report. In the evening the Police came to the scene and held an inquest.

Cross-examination.—I do not know from where the accused took out the dagger. I only saw it in his hands. I did not know the accused or the deceased or Koragappa before they began coming to P.W. 1's tea shop. There was no one else in my shop at that time. I have no assistants. I am not related in any way to Koragappa. We belong to different castes. I am a Malyalee Billava while Koragappa is a Tulu Billava. I was sewing on my machine when I heard them quarrel. I turned round and looked and saw them in the verandah of P.W. 1's shop shouting. What they were quarrelling about I could not make out. I do not know what the quarrel was about. Allu and Gregory are not my customers. I usually take tea in P.W. 1's tea shop. I am on friendly terms with P.Ws. 1 and 2 and Allu, Gregory and Francis. I am a sub-tenant under P.W. 1. The landlord then was one Idinne Beary. I am not related to P.W. 1. I do not know if Allu and Gregory distil arrack but there was a prohibition case against Gregory about a year back. I had no occasion to speak or get acquainted with the accused and the deceased and Koragappa. I have mentioned the names of all the eye-witnesses in Exhibit P-1. The scuffle between Koragappa and the deceased lasted for about 10 minutes. I did not attempt to separate them but continued sewing. No one intervened. Allu came to P.W. 1's tea shop while the accused, the deceased and Koragappa were there. As soon as these three persons got down to the road quarrelling Allu came out of the tea shop. At the time of the stabbing only the person already named by me were present. Gregory was coming from his house. Later, many persons gathered. When the accused freed himself from Allu's grasp Allu did not follow him but went this way towards his house. Allu did not see the stabbing. There were no loud cries at the time of the stabbing.

Re-examination.—Nil.

(Signed) Babu Belchada.

Taken down by me in open Court and interpreted to the witness in Tulu and acknowledged by him to be correct.

(Signed) P. T. RAMAN NAYAR,
Sessions Judge.

(True copy)

P.W. 4.

(2—2—1953)

IN THE COURT OF SESSION, SOUTH KANARA DIVISION.

Sessions Case No. 2 of 1953.

Deposition of fourth witness for prosecution.

Name—Alphonso Minezes. Father's name—Rosario Minezes. Village—Neermarga. Taluk—Mangalore. Caste—Roman Catholic Christian. Calling—Gardner (betal nut). Religion—Christianity. Age—40 years.

Solemnly affirmed in accordance with the provisions of Act X of 1873 on the 2nd day of February 1953 by Sri B. Mahabala Shetty, Translator.

My name is Alphonso Minezes but I am called "Allu" for short.

P.W. 1's tea shop is on the top of a hill in Neermarga. My house is in the Valley about 3 furlongs to the north-west of P.W. 1's tea shop. I know the accused and the deceased and Koragappa since about two or three months before the occurrence. I used to see them together in P.W. 1's tea shop. It was rumoured that they were trading in arrack and were coming to Neermarga for that purpose but I have no personal knowledge.

The deceased was stabbed and killed on a Saturday about four months ago. On that day I went to P.W. 1's tea shop at about 10-30 a.m. and found the accused and the deceased and Koragappa having tea there. P.Ws. 1 and 2 were in the shop. I also had my tea. The accused and the deceased and Koragappa were talking about a prohibition case. The accused was saying that the deceased had got him caught in the prohibition case. After having their tea they went out to the verandah. Meanwhile Francis Minezes, my cousin's son had come to the tea shop for tea. After going to the verandah the accused and the deceased and Koragappa began talking loudly. P.W. 1 asked them to go away. They got down to the road but continued shouting. I finished my tea and came out. Koragappa was saying that he and the deceased would some how square up the prohibition case against the accused. Thereupon the deceased said that he knew nothing about the case and was not prepared to help the accused in any way. Immediately the accused drew the dagger M.O. 1 from his waist and shouted "I am going to jail in any case. I shall kill you and go'. I went and caught hold of his hand and dragged him northwards towards my house. I took him a distance of about half a furlong.

Then he asked me to let him go saying that he had taken his knife only to frighten the deceased and that he did not mean any harm. So saying he freed himself and proceeded southwards. I got down the hill through the jungle towards my house thinking the accused would not make further trouble. About an hour or so later I heard of the occurrence. Francis came and told me and I went to the scene and found the deceased lying dead. Later in the evening in Police came and held an inquest at which I was examined. Ten days later the Police showed me M.O. 1 which I identified.

Cross-examination.—The accused drew M.O. 1 from his waist where it had been trucked beneath his dhoti. I saw it only when he wrew it and do not know whether it had a case or not. I had met and spoken to the accused and his companions in P.W. 1's tea shop many times but I cannot say that they were my friends. It is not true that I make arrack. I do not know about Gregory but I know that he was involved in a prohibition case about a year back. There was no prohibition case against me at any time. It is not true that myself and Gregory were supplying the accused with arrack and that he owes us money on that score. We have had no dealings at any time and he owes me not a pie. Nor do I owe him anything. It is false to say Gregory and I went to Mangalore about five or six months before the occurrence and demanded any amount from the accused or, that, on his failure to pay threatened to get him into trouble some day or other. It is false to say that I have set up the witnesses in this case. It is not true to say that I pointed out the accused to the Police at Mangalore and got him arrested.

On most days I go between 10 and 11 a.m. to P.W. 1's tea shop for tea. When I came out of the tea shop the accused, the deceased and Koragappa had got down to the road. I did not see the deceased remove his shirt and shoes. He had not removed them till I left the place taking the accused with me. I caught hold of the accused's right hand in which he was holding M.O. 1 and dragged him away. He did not resist. I did not ask him what the trouble was about. The accused wrenched his hand free from my grasp saying that he would do no harm. I did not ask him to leave M.O. 1 behind with me. I made no attempt to follow him because I believed his assurance that he would not make trouble. As soon as the accused turned back I went my way and did not see whether he ran or walked back. I did not hear any cries.

Re-examination.—Nil.

(Signed) Alphonso Minezes.

Taken down by me in open Court and interpreted to the witness in Tulu and acknowledged by him to be correct.

(Signed) P. T. RAMAN NAYAR,
Sessions Judge.

(True copy)

P.W. 5.

(2—2—1953.)

IN THE COURT OF SESSION, SOUTH KANARA DIVISION.

Sessions Case No. 2 of 1953.

Deposition of fifth witness for prosecution.

Name—Francis Minezes. Father's name—Salvadore Minezes. Village—Neermarga. Taluk—Mangalore. Caste—Indian Christian. Calling—Cultivation. Religion—Raman Catholic Christian. Age—23 years.

Solemnly affirmed in accordance with the provisions of Act X of 1873 on the 2nd day of February 1953 by Sri B. Mahabala Shetty, Translator, District Court.

I belong to Neermarga. My house is near P.W. 4's house. I know the accused, the deceased and Koragappa since about six months before the occurrence. I used to see them move about together in my village and I have also seen them in P.W. 1's tea shop where I go daily for tea.

The deceased was stabbed and killed at about 11 a.m. on a Saturday about four months ago. I went to P.W. 1's tea shop for tea at about 10 or 10-30 a.m. The accused and the deceased and Koragappa were in the tea shop then. After having their tea, the accused and the deceased and Koragappa went out and began quarrelling in the verandah. P.W. 1 asked them to go away. They got down to the road and continued the quarrel. I heard the deceased cry out "Have you brought me here to kill me" and I saw the accused drew a dagger like M.O. 1 from his waist. P.W. 4 went and caught hold of the accused's hand and took him away southwards. The deceased and Koragappa were pushing and pulling each other. Soon the accused came back running and stabbed the deceased twice with his dagger first on the head and next on the left flank. The deceased fell down dead. The accused and Koragappa ran away southwards, the accused taking the knife with him. We went to the deceased and found him dead. At the time of the stabbing, Gregory also was there. He was coming along the road from his house. P.Ws. 1, 2 and 3 and myself and Gregory

saw the stabbing. P.W. 4 had by then gone down the hill towards his house. P.W. 3 left to inform the Patel. A crowd gathered. I went home and informed P.W. 4. In the evening the Police came and held an inquest at which I was questioned.

Cross-examination.—P.W. 4 is my father's cousin. Gregory is P.W. 4's brother's son and my cousin. I am 23 years old. Altogether the quarrel lasted about half an hour. When the stabbing took place P.W. 3 raised a hue and cry. No one else cried out. When the accused stabbed him the deceased was struggling with Koragappa. I do not know whether he saw the accused coming. The accused stabbed the deceased from the side. P.W. 4 took the accused about half a furlong away. The accused did not resist.

Re-examination.—Nil.

(Signed) Francis Minezes.

Taken down by me in open Court and interpreted to the witness in Tulu and acknowledged by him to be correct.

(Signed) P. T. RAMAN NAYAR,
Sessions Judge

(True copy)

P.W. 6.

(2—2—1953.)

IN THE COURT OF SESSION, SOUTH KANARA DIVISION.

Sessions Case.No. 2 *of* 1953.

Deposition of sixth witness for prosecution.

Name—Gregory Minezes. Father's name—Joachim Minezes. Village—Neermarga. Taluk—Mangalore. Caste—Roman Catholic Christian. Calling—Agriculturist. Religion—Christianity. Age—21 years.

Solemnly affirmed in accordance with the provisions of Act X of 1873 on the 2nd day of February 1953 by Sri B. Mahabala Shetty, Translator.

I belong to Neermarga. My house is about a furlong south of P.W. 1's tea shop. I know the accused and the deceased and Koragappa since about six months before the occurrence. I used to see them together in the village. They used to come for drinking arrack that is what I have heard. The deceased was stabbed and killed at about 10-30 a.m. or 11 a.m., about two months ago on a Saturday. At that time I was going past P.W. 1's tea shop on my way from my house to my betal vine garden. I saw the

accused, the deceased and Koragappa talking loudly just outside P.W. 1's tea shop. The accused was saying to the deceased " you get me caught in the prohibition case. You must help me out ". The deceased said he knew nothing about it. Thereupon the accused drew the dagger M.O. 1 from his waist saying " All right. You will not help me. I am going to jail in any case. I'll kill you and go ". Then P.W. 4 came out of the tea shop and caught hold of the accused by his hand and took him northwards. He took the accused a distance of about half a furlong. Meanwhile the deceased and Koragappa came to grips and were pushing and pulling each other. The accused freed himself from P.W. 4's grasp and came back running and stabbed the deceased on his head and then on his left flank. The deceased fell down dead. The accused and Koragappa ran away southwards the accused taking M.O. 1 with him. After having a look at the deceased I went my way. In the evening the Police came and held an inquest at which I was examined.

Cross-examination.—There was a prohibition case against me about a year back. A still and other things were seized from my house. I was convicted and fined. After that there has been no case against me. I prepared arrack only for my own consumption and not for sale. It is not true that P.W. 4 and I had supplied the accused with arrack or that he owed us money or that we had a quarrel with him at Mangalore over it or that we threatened to get him into trouble. I have not seen him in Mangalore and do not know where he lives. I go to my betal vine garden daily. I had no special work in the garden that day. I was going to see it. I was going by myself. No one tried to separate Koragappa and the deceased when they were struggling. Their scuffle might have lasted about 15 minutes. When the accused came running dagger in hand no one tried to stop him. There are no houses in the neighbourhood. After the occurrence, people were coming and seeing the body and going. About 100 persons might have come.

Re-examination.—Nil

(Signed) Gregory Minezes.

Taken down by me in open Court and interpreted to the witness in Tulu and acknowledged by him to be correct.

(Signed) P. T. RAMAN NAYAR,
Sessions Judge.

(True copy)

Sub-Inspector.

R T 38—3

P.W. 7.

(7—2—1953.)

IN THE COURT OF SESSION, SOUTH KANARA DIVISION.

Sessions Case No. 2 of 1953.

Deposition of seventh witness for prosecution.

Name—Iqbal Hussain. Father's name—Ahmad Hussain Khan. Village—Kodialbail. Taluk—Mangalore. Caste—Muslim. Calling—Prohibition Sub-Inspector, Uppinangady. Religion—Islam. Age—28 years.

Solemnly affirmed in accordance with the provisions of Act X of 1873 on the 7th day of February 1953 by Sri B. Mahabala Shetty, Translator, District Court.

In September 1952 I was Prohibition Sub-Inspector, Padav. Neermarga, was in my jurisdiction.

I know the accused. On 26—9—1952 at about 3 p.m. I arrested him at the Prohibition Chowky at Padav for the possession of 15 bottles of arrack which he was bringing into Mangalore by a bus in an air-pillow. I arrested him on previous information. I released him on bail to appeal before Court on 3—10—1952 at 10 a.m., but he failed to appear.

Neermarga was a hot bed of illicit distillation. Arrack was being regularly brought from Neermarga into Mangalore for sale here.

I was questioned by the Police in this case.

Cross-examination.—I knew the accused even before the day I arrested him. He belongs to Mangalore, but I do not know where exactly he lives. The accused was a passenger in the City bus coming from Gurpur side when I arrested him. The bus does not come through Neermarga. P.W. 1's tea shop is about two miles from the Karkal-Mangalore road along which the bus comes. It was not on general check but as a result of special information received against the accused that I searched and arrested him. The accused denied the prohibition offence but did not otherwise contest the case. He was convicted and sentenced to three months, rigorous imprisonment. The trial of the prohibition case was taken up only after the 15th of October. I had information against the deceased also that he was dealing in arrack.

Re-examination.—Nil.

Uppinangady,
3—2—1953.

(Signed) Iqbal Hussain,
Prohibition Sub-Inspector.

Taken down by me in open Court and read over to the witness and acknowledged by him to be correct.

(Signed) P. T. RAMAN NAYAR,
Sessions Judge.

(True copy)

I

P.W. 8.

(3—2—1953.)

IN THE COURT OF SESSION, SOUTH KANARA DIVISION.

Sessions Case No. 2 *of* 1953.

Deposition of eighth witness for prosecution.

Name—Dr. E. S. Jacobs. Father's name—Rev. M. D. Jacob. Village and taluk—Mangalore. Caste—Indian Christian. Calling—Civil Assistant Surgeon and Radiologist. Religion—Christianity. Age—47 years.

Solemnly affirmed in accordance with the provisions of Act X of 1873 on the 3rd day of February 1953 by Sri B. M. Shetty, Translator, District Court.

1. I am a Civil Assistant Surgeon attached to the Headquarters Hospital, Mangalore.

2. The body of the deceased was brought to the hospital by P.C. No. 145, at 11 p.m. on 4—10—1952. I did an autopsy on it the next morning and found the injuries and other conditions described in my certificate Exhibit P-2.

The deceased had three external injuries :—

(1) A horizontal gaping incised penetrating wound situated on the left side of back of chest (left flank) in the ninth intercostal space posteriorly, situated a little medial to the posterior axilliary line 3½ inches by 1¼ inch exposing all the cut soft tissues under-lying and the lung tissues through the cut portion of the intercostal muscle. Internally I found that this injury had cut through the lungs and penerated the heart. It was a necessarily fatal injury and death must have been more or less instantaneous.

(2) A nearly horizontal curved irregular incised gaping wound situated on the left temple 3¾ inches by ¼ inch by ¼ inch deep.

(3) An obliquely horizontal incised gaping wound ½ inch to the right side of the medial line on the upper part of the occipital region of the scalp 3½ inches by ¼ inch and bone deep.

Injury No. 2 had cut the temporal blood vessels and was therefore capable of causing death. Injury No. 3 was simple.

Death was due to shock and hæmorrhage resulting from injury No. 1.

The injuries must have caused by a sharp weapon. M.O. 1 could have caused them.

I first saw the body at 9 a.m. on 5—10—1952. It was 18 to 32 hours dead then.

Injuries Nos. 2 and 3, having regard to their location, could have been caused by one blow.

Cross-examination.—Nil.

(Signed) E. S. Jacob. 10
3—2—1953.

Taken down by me in open Court and read over to the witness and acknowledged by him to be correct.

(Signed) P. T. RAMAN NAYAR.
Sessions Judge.

(True copy)

P.W. 9.

(3—2—1953.)

IN THE COURT OF SESSION, SOUTH KANARA DIVISION. 20

Sessions Case No. 2 *of* 1953.

Deposition of ninth witness for prosecution.

Name—Sri Immanuel Bangera. Father's name—Danu Bangera. Village—Bendoor. Taluk—Mangalore. Caste—Protestant Christian. Calling—Motor Vehicle Driver. Religion—Christianity. Age—48 years.

Solemnly affirmed in accordance with the provisions of Act X of 1873 on the 3rd day of February 1953 by Sri B. M. Shetty, Translator, District Court.

I belong to Mangalore and am a lorry driver. In October 1952 30 I was driving loory No. M.D.X. 1647. I know the accused for about a year. On 6—10—1952, I was carrying salt bags in my lorry from Mangalore to Magundi Estate in Mysore. At about 9 a.m., when I was passing through Padil on the outskirts of Mangalore the accused stopped me and asked for lift saying that he was urgently bound for Beltangadi. I gave him a lift. He sat among the salt bags. Soon after was passed Adyar the accused stopped me and got down and went away saying that he had some money to collect there. I proceeded to Magundi. When the salt bags were unloaded the dagger M.O. 1 was found in the lorry. I guessed

it must be the accused's and put it in my tool box with a view to return it to him when claimed. On 10—10—1952 at Mangalore an Head constable stopped my lorry and asked me about the dagger. I handed over M.O. 1 to him.

Cross-examination.—As a lorry driver I am naturally afraid of the Police but I am not beholden to them. The accused was an acquaintance but not a friend of mine. I used to meet him at the Central Maidan, but do not know where he lives. He used to sit at the Maidan during road side shoe repairs. We are not allowed to take passengers in the lorry. I cannot say how M.O. 1 came to be in my lorry whether it was or was not there at the time of the loading. My guess was that the accused must have dropped it there. The accused did not pay me anything.

Re-examination.—Nil.

(Signed) Immanuel Bangera.

Taken down by me in open Court and interpreted to the witness in Kannada and acknowledged by him to be correct.

(Signed) P. T. RAMAN NAYAR.
Sessions Judge.

(True copy)

P.W. 10.

(3—2—1953.)

IN THE COURT OF SESSION, SOUTH KANARA DIVISION.

Sessions Case No. 2 *of* 1953.

Deposition of tenth witness for prosecution.

Name—G. Sitarama Rao. Father's name—G. Laxman. Village—Kallianpur. Taluk—Udipi. Caste—Kshatriya. Calling—P.C. No. 282. Religion—Hinduism. Age—28 years.

Solemnly affirmed in accordance with the provisions of Act X of 1873 on the 3rd day of February 1953 by Sri B. M. Shetty, Translator, District Court.

I am the station writer of Mangalore, East station. On 4—10—1952. P.W. 3 came to the station at 3 p.m. and made the statement, Exhibit P-1 which I recorded. I read it over to him and took his signature to it after he admitted it to be correct. I registered a case under Section 302, I.P.C., and sent Express reports to my superiors.

Neermarga is 8 miles from Mangalore East Police station.

Cross-examination.—In Exhibit P-1, I recorded everything that P.W. 3 told me.

Re-examination.—Nil.

(Signed) G. Sitarama Rao,
P.C. No. 282.

Taken down by me in open Court and interpreted to the witness in Kannada and acknowledged by him to be correct.

(Signed) P. T. RAMAN NAYAR,
Sessions Judge

(True copy)

P.W. 11.

(3—2—1953.)

IN THE COURT OF SESSION, SOUTH KANARA DIVISION.

Sessions Case No. 2 *of* 1953.

Deposition of 11*th witness for prosecution.*

Name—Ramakrishna. Father's name—B. Parameshwara. Village and taluk—Attached to Mangalore East station, Mangalore. Caste—Kshatriya. Calling—P.C. No. 145. Religion—Hinduism. Age—32 years.

Solemnly affirmed in accordance with the provisions of Act X of 1873 on the 3rd day of February 1953 by Sri B. M. Shetty, Translator, District Court.

I am a constable attached to Mangalore East station. I was present at the inquest held by the Circle Inspector over the body of the deceased at Neermarga on 4—10—1952. The body was handed over to me at about 8 p.m. for being taken to the Headquarters Hospital, Mangalore, for post-mortem examination. I took it there at 11 p.m. and was present when P.W. 8 did the autopsy the next morning.

Cross-examination.—Nil.

(Signed) B. Ramakrishna,
P.C. No. 145.

Taken down by me in open Court and interpreted to the witness in Kannada and acknowledged by him to be correct.

(Signed) P. T. RAMAN NAYAR.
Sessions Judge.

(True copy)

P.W. 12.

(3—2—1953.)

IN THE COURT OF SESSION, SOUTH KANARA DIVISION.

Sessions Case No. 2 *of* 1953.

Deposition of 12*th witness for prosecution.*

Name—K. Narayana. Father's name—M. Vittappa. Village and taluk—Attached to Mangalore East station, Mangalore Town, B-3 station. Caste—Marathi. Calling—P.C. No. 435. Religion —Hinduism. Age—32 years.

Solemnly affirmed in accordance with the provisions of Act X of 1873 on the 3rd day of February 1953 by Sri B. M. Shetty, Translator, District Court.

I am a constable atttached to Mangalore East station. On 4—10—1952, I was deputed on special duty to trace and arrest the accused. On 6—10—1952 at 3 p.m. I found him at Arkula near Adyar, 8½ miles from Mangalore and arrested him and produced him that evening at the station.

Cross-examination.—It is not true that the accused was arrested at Kadri in the night of 4—10—1952. It is not true that he was kept in confinement in the station from that time till his production before Court. As I have said he was arrested only on 6—10—1952 at Arkula.

Re-examination.—Nil.

(Signed) K. Narayana.
P.C. No. 435.

Taken down by me in open Court and interpreted to the witness in Kannada and acknowledged by him to be correct.

(Signed) P. T. RAMAN NAYAR,
Sessions Judge.

(True copy)

P.W. 13.

(3—2—1953.)

IN THE COURT OF SESSION, SOUTH KANARA DIVISION.

Sessions Case No. 2 of 1953.

Deposition of 13th witness for prosecution.

Name—P. V. Louis. Father's name—J. P. Lewis. Village and taluk—Mangalore. Caste—Christian. Calling—S.B.H.C. No. 379. Religion—Christianity. Age—38 years.

Solemnly affirmed in accordance with the provisions of Act X of 1873 on the 3rd day of February 1953 by Sri B. M. Shetty, Translator, District Court.

In October 1952, I was an Head constable attached to the Mangalore East station. I was in the Mangalore North station, when the accused was questioned by Sub-Inspector Balakrishnan Nair on 6—10—1952 at about 9 p.m. The accused made a statement and as a result of the information given by him I was deputed to trace and question P.W. 9. On 10—10—1952 I stopped P.W. 9 at Golikatta Bazaar when he was driving his lorry No. M.D.X. 1647. I questioned him. He produced the dagger M.O. 1 which I seized.

Cross-examination.—Nil.

(Signed) P. V. Louis.
S.B.H.C. No. 379.

Taken down by me in open Court and read over to the witness and acknowledged by him to be correct.

(Signed) P. T. RAMAN NAYAR.
Sessions Judge.

(True copy)

P.W. 14.

(3—2—1953.)

IN THE COURT OF SESSION, SOUTH KANARA DIVISION.

Sessions Case No. 2 of 1953.

Deposition of 14th witness for prosecution.

Name—M. Govinda Menon. Father's name—P. Kunhikrishna Nair. Village—Elagulli. Taluk—Palghat. Caste—Nair. Calling—Circle Inspector of Police. Religion—Hinduism. Age—53 years.

Solemnly affirmed in accordance with the provisions of Act X of 1873 on the 3rd day of February 1953 by Sri B. M. Shetty, Translator, District Court.

In October 1952, I was Circle Inspector of Police, Mangalore. I received the express report in this case at 4-15 p.m. on 4—10—1952. I proceeded to the scene of offence taking the Sub-Inspector with me. There I found the body of the deceased and held an inquest between 5 p.m. and 8 p.m. At the inquest I examined P.Ws. 1 to 6 and others. Then I handed over the body to P.W. 11 for being taken to the Mangalore hospital for autopsy. I deputed men to trace and arrest the accused. Then I handed over the investigation to the Sub-Inspector.

Exhibit P-3 is a sketch I prepared of the scene of offence. X in the plan is the spot where I found the body. It is about 23 yards from the shops, A.B.C. which face west.

Cross-examination.—The case was registered against the accused and Koragappa. Koragappa is absconding. The case against him was dropped since there was no evidence against him. No referred charge-sheet has been filed in respect of that. I have not questioned Koragappa. He was not available. The accused belongs to Kudroli in Mangalore. It is not true that the accused was arrested in Kadri on 4—10—1952 and was in Police custody till he was produced before the Magistrate on 7—10—1952.

Re-examination.—Nil.

(Signed) M. G. Menon.
3—2—1953.

Taken down by me in open Court and read over to the witness and acknowledged by him to be correct.

(Signed) P. T. RAMAN NAYAR,
Sessions Judge.

(True copy)

P.W. 15.

(3—2—1953.)

IN THE COURT OF SESSION, SOUTH KANARA DIVISION.

Sessions Case No. 2 of 1953.

Deposition of 15th witness for prosecution.

Name—Balakrishna Nair. Father's name—P. V. A. Nair. Village—Kotigeri. Taluk—Kottayam. Caste—Nair. Calling—Sub-Inspector of Police. Religion—Hinduism. Age—26 years.

Solemnly affirmed in accordance with the provisions of Act X of 1873 on the 3rd day of February 1953 by Sri B. M. Shetty, Translator, District Court.

I am Sub-Inspector of Police, Mangalore east station. On 4—10—1952 I was with P.W. 14 when he held the inquest in this case at Neermarga. After that day's investigation the case was handed over to me and I did the further investigation.

There is a mistake in the index in Exhibit P-3. C is P.W. 1's tea shop and A is P.W. 3's tailor shop—not the other way about as shown in the index.

The accused was arrested on 6—10—1952 and produced at the station by P.W. 12. I questioned him in the lock-up in Mangalore north station. He made a statement. On the information furnished by him I deputed P.W. 13 to trace and question P.W. 9.

I completed the investigation and laid the charge-sheet on 21—10—1952.

Cross-examination.—Nil.

(Signed) Balakrishna Nair.
Sub-Inspector of Police.

3—2—1953.

Taken down by me in open Court and read over to the witness and acknowledged by him to be correct.

(Signed) P. T. RAMAN NAYAR,
Sessions Judge.

(True copy)

Exhibit P-4.

(Statement of the sole accused.)

IN THE COURT OF THE STATIONARY SUB-MAGISTRATE, MANGALORE.

Preliminary Register Case No. 13 of 1952.

Statement of the sole accused.

Name—Vasu Samagara. Father's name—Gopala Samagara. Village—Bikkana Katte. Taluk—Mangalore. Caste—Samagara. Calling—Samagara. Religion—Hinduism. Age—31 years.

Date, 3—2—1953.

Q.—Have you witnesses to be examined in this Court?

A.—No.

(Signed) Vasudeva.

Taken down, etc.

(Signed) M. S. MENON.
Stationary Sub-Magistrate.

22—12—1952.

Q.—You have heard the prosecution witnesses. P.W. 14 says, that on 26—9—1952, you were arrested by the Padavu South Prohibition Sub-Inspector (P.W. 14), while you were bringing arrack from Kulshekar side, that a charge-sheet Exhibit P-4 was laid against you and that when the said case was posted for enquiry in the Additional First-class Magistrate's Court to 3—10—1952, you were not present?

A.—I will state in the higher Court, what I have to state regarding this.

Q.—P.W. 13 says, that you along with Koragappa were always visiting the house of the deceased, that you were taking away the deceased, that on the previous day of the occurrence, you and Koragappa went to the deceased's house and when you told the deceased to come along with you to Neermarga, the deceased did not come along with you as he had stomach ache, that you both went away asking him to meet at Neermarga the next day, and that then you had the knife M.O. I with you?

A.—I never went to the deceased's house till now. I did not know where my (?) (his) house was.

Q.—P.Ws. 1 to 6 say, that you, Koragappa and the deceased were coming to Neermarga once in two or three days and that at that time you were coming to P.W. 1's hotel for taking tea?

A.—I never went to Neermarga after the prohibition case against me. I am not much acquainted with Koragappa. I did not go along with him to Neermarga. I alone had been to P.W. 1's hotel to take tea.

Q.—P.Ws. 1 to 6 say, that on 4—10—1952 at about 10 and 10-30 a.m. you, deceased and Koragappa Pujary had gone to P.W. 1's hotel to take tea, that after taking tea, you three were talking inside the hotel about a prohibition case, that later came out of the hotel and the deceased cashed the bill of you all in respect of the tea and that after coming out like that, sat on the verandah of the shop and were quarrelling violently about the prohibition case?

A.—I did not go to P.W. 1's hotel along with the deceased and Koragappa on the day of the occurrence as deposed to by the witnesses. On that day I never went to Neermarga.

Q.—The witnesses say, that in the quarrel between you and the deceased, you charged the deceased of having given information and got up the case against you and said that you would go to jail after finshing him, that P.W. 1 asked all of you to go out of the hotel, and that all of you, three persons then got down and went to the road?

A.—This is not correct. I never talked like that. I never went there.

Q.—Prosecution witnesses say, that then Koragappa told you, that he and the deceased would look to the case, for which the deceased said, that he could not help, that then you said, that if it was not possible, you would go to jail only by killing him and that you took out the knife M.O. I from your waist?

A.—There was no talk at all as stated above. I was never in the scene.

Q.—P.Ws. 1 to 6 say, that in the meanwhile P.W. 4 who came out of the hotel after tea, caught hold of your hand on seeing you take out M.O. I and told you not to create trouble and took you along the path leading to his house to a distance of about 28 marus, that you freed yourself from P.W. 4's hand by saying, that you would not create any trouble and that you had done like that only to frighten them and came back running from there to where the deceased was?

A.—P.W. 4 has deposed out of enmity against me. The other witnesses have deposed due to P.W. 4's instigation.

Q.—The witnesses say, that on seeing you take out M.O. I, the deceased on saying, whether he was brought there for being killed, removed the rubber shoes M.O. II which were in his feet, the shirt M.O. III which he was wearing and also the baniyan M.O. IV, and said that he might be killed, if wanted to kill him and that the deceased and Koragappa pushed each other?

A.—I never knew about this.

Q.—P.Ws. 1 to 3, 5 and 6 say, that after you freed yourself from P.W. 4's hand, you came to where the deceased was and stabbed the deceased twice with the knife M.O. I, that the said stabs struck the deceased's head and flank and the deceased fell down. The witnesses say that later you ran away from the scene of offence carrying the knife M.O. I?

A.—I never did like that. I do not know anything about this. I have not committed any offence.

Q.—The witnesses say, that on going to the spot where the deceased had fallen and while seeing, he was not alive, that the injuries on his head and flank were bleeding, that there was blood on the ground at the scene of offence and that M.O. V was the cloth worn by the deceased?

A.—I do not know anything about this.

Q.—P.W. 9 says, that on 6—10—1952 at about 9 a.m. while he was driving his lorry No. M.D.X. 1647, loaded with salt bags to Magundhi estate in Mysore, you stopped his lorry near Padil and boarded the lorry saying, that you had to go to Belthangady on urgent work, that you sat over the salt bags at the rear of the lorry and that you got down at a place one mile away from Adyar Katte saying, that you had to recover some amount there?

A.—On that day I never went in the lorry.

Q.—P.W. 9 says, that on reaching Magundhi estate, when the salt bags were unloaded, M.O. I knife, was found between the gunny bags and that he kept it in the tool box to return it to you as it might be yours. P.Ws. 9 and 12 say, that on 10—10—1952 in the morning, P.W. 12 questioned P.W. 9 and seized M.O. I as per yadast Exhibit P-2. P.W. 9 says that he is called as Mana?

A.—I never went in P.W. 9's lorry. M.O. I knife is not mine.

Q.—P.W. 10 says, that on 6—10—1952 at 3 p.m. he and P.C. No. 563 arrested you at Arkula?

A.—On 4—10—1952 in the night, I was arrested at 8 o'clock in the Kadri temple road by P.W. 12 and two other policemen, and not at Arkula.

P.W. 12 says, that he was also present when the Sub-Inspector questioned you on 6—10—1952 in the night and that P.W. 9 was discovered in pursuance of your statement made to the Sub-Inspector?

A.—I did not tell anything to the Sub-Inspector.

Q.—P.W. 11, the doctor, who did the autopsy on the dead body of the deceased says, that the injuries described in the post-mortem certificate, Exhibit P-3, were found on his body, that the said injuries could have been caused by a knife, like M.O. 1 and that the deceased died due to the injury on the left side of the chest, described in Exhibits P-1 (?), (P-3).

A.—I do not know anything about this.

Q.—Have you anything more to say?

A.—No.

(Signed) Vasudeva. 10

Taken down, etc.

(Signed) M. S. MENON.
Stationary Sub-Magistrate.

22—12—1952.

Q.—You have understood the charge framed against you under Section 302, I.P.C., being read over and explained to you. Do you want a copy of the charge?

A.—Yes.

Q.—Have you defence witnesses to be examined in the Sessions Court?

A.—I will file the list in the higher Court. 20

(Signed) Vasudeva.

Taken down, etc.

(Signed) M. S. MENON.
Stationary Sub-Magistrate.

24—12—1952.

Examination of the sole accused.

IN THE COURT OF SESSION, SOUTH KANARA DIVISION.

Sessions Case No. 2 of 1953.

Examination of the sole accused.

Name—Vasu Samagara. Father's name—Gopala Samagara. 30
Village—Bikkanakatte. Taluk—Mangalore. Caste—Samagara. Calling—Samagara. Religion—Hinduism. Age—31 years.

Date, 3—2—1953.

Q.—You have heard the statement Exhibit P-4 made by you in the lower Court, read over to you. What do you wish to say?

A.—Exhibit P-4 is a correct record of what I said in the lower Court. What I have said in Exhibit P-4 is the truth. I am innocent and this case against me is completely false. I did not know the deceased at all and I know Koragappa only by sight. It is true that I was going to Neermarga but I was going alone and not in

the company of the deceased and Koragappa. I was going till about three or four months before the occurrence. On the date of the occurrence I was in Mangalore and was not in Neermarga at all. The evidence of P.Ws. 1, 2, 3, 5 and 6 that I stabbed the deceased with M.O. 1 outside P.W. 1's tea shop in Neermarga is completely false. As I have said I was not in Neermarga at all that day. I did not know the deceased and the dagger M.O. I was not in my hands. I do not know whose it is. I saw it for the first time at the Police station. P.Ws. 1 to 6 have given false evidence against me at the instance of P.Ws. 4 and 6. I owed P.Ws. 4 and 6 money for arrack supplied to me. I was going to Neermarga to drink and was getting arrack from them. About two months before the occurrence they came to Mangalore and demanded the money from me. I was unable to pay and asked for time. They left threatening me by saying that if I did not pay within a week they would teach me a proper lesson. Because I did not pay them the money they have engineered this false case against me with the help of their neighbour and friends P.Ws. 1 to 3 and 5. P.W. 9's evidence that I travelled in his lorry from Padil to Arkula on the 6th October is false. I do not know him at all. In fact I was in Police custody on the 6th. I was arrested at Kadri at 8 or 8-30 p.m. on 4—10—1952 when I was going to have my bath and was kept in the lock-up till 7—10—1952, when I was produced before the Magistrate. P.W. 12's evidence that I was arrested at Arkula on 6—10—1952 is false.

It is true that I was arrested by P.W. 7 on 26—9—1952 at Padav when I was coming to Bendoor in the city bus and a prohibition case put up against me because there was, unknown to me, an airpillow containing arrack under my seat.

Q.—Have you anything more to say?

A.—Nothing excepting that I am innocent.

Q.—Have you any defence witnesses?

A.—No.

(Signed) P. T. RAMAN NAYAR.
Sessions Judge.

(True copy)

Exhibit P-1.

Statement of Babu Belchada, son of Appayya Belchada of Bondanthila village, dated 4—10—1952.

Oral complaint, dated 4th October 1952, stated on coming to the station by Babu Belchada, son of Appaiya Belchada of Bondanthila village, Mangalore taluk.

I live in Bondanthila village. I have a tailor's shop at Padavu in Neermarga village. Always I come to the shop in the morning and return to my house in the evening. This day at about 10-30 o'clock in the morning Aithappa Pujary, residing at Kadri-1, Koragappa Pujary of Bendore-1, Vasu Samagara of Bendore-1, these three persons came and sat in the hotel of Chandu Pujary, situated in the building of my shop to take coffee and after drinking coffee, came and sat over the verandah of the said hotel and began to abuse between themselves. Then Koragappa went on pushing Aithappa across the road in front. Vasu Samagara then had a sword like knife about 1½ span long, in his hand. Allu Minezes of Neermarga, caught hold of the said Vasu and took him away dragging to a distance of about half a furlong saying, that it was not proper to create trouble. Koragappa and Aithappa began to talk. On seeing this Vasu Samagara freeing himself from the hands of Allu Minezes, ran and stabbed Aithappa with the knife which was in his hand. Aithappa fell down. Then I and all others who were nearby went running and while seeing found that Aithappa had lost his life. On seeing that, Koragappa and Vasu both ran towards Pedamale side. I made Chandu Pujary's younger brother to stay near the dead body, sent Chandu Pujary to Aithappa's house to inform about this and I went to the potail to inform about this. As I learnt that the potail had gone to Mangalore, I came direct to the station to inform about this. The said offence was committed at about 11-30 o'clock. This is all my statement. Heard, being read out. It is correct as stated by me.

(Signed) Babu Belchada,
4—10—1952.

The above statement has been correctly recorded by me and read over to the complainant and admitted by him to be correct.

(Signed) G. Seetharama Rao,
4—10—1952. *S.W. B-2.*

Exhibit P-2.

(Post-mortem certificate.)

(Original.)

No. 18 of 1952.

Regarding the body of a male, aged about 38 years, name Aithappa Poojari son of Nagappa Poojari. Requisition received at 11 p.m. on 4—10—1952 from the Inspector of Police, Mangalore of Mangalore with his letter No. Nil., dated 4th October 1952. Body in charge of Police constable No. 145 named Ramakrishna.

Identification and caste marks :—

1. A dark mole on the right side of chest 5 inches below right axilla.

2. A drak mole 12 inches below the top of right shoulder on the back.

3. A horizontal scar 2½ inches just below Zipho-sternum.

The body was first seen by the undersigned at 9 a.m. on the 5th October 1952. Its condition then was cold-Rigor-Mortis passed off in upper limb but slightly present in lower limbs.

Post-mortem commenced at 10 a.m. on 5th October 1952.

Appearances found at the post-mortem.

Body of a well nourished adult male; scalp hair cropped grey and black mixed 5 inches—Rigor mortis passed off in the upper limbs, but slightly present in the lower limbs. Body symmetrical, features calm, eye-lids partially open, jaws clenched, teeth complete, tongue not protruding—No discharge from mouth nose or ears.

The following external injuries were found on the person :

(1) A horizontal, gaping, incised, penetrating wound situate on the left side of back of chest in the ninth intercostal space posteriorly, situated a little medial to the posterior axillary line and 3½ inches by 1½ inches exposing all the cut soft tissues underlying and the lung tissue through the cut portion of the intercostal muscle. Clotted blood at the mouth of the wound with blood smear on the back and on the left side.

(2) A nearly horizontal, curved irregularly incised gaping wound, situated on the left temple region ¾ inch by ½ inch by ½ inch blood smear sticks on the left side of the face and ear.

(3) An obliquely horizontal incised gaping wound, ½ inch to the right side of the mediam line on the upper part of occipital region of the scalp 3½ inches by ½ inch by bone deep.

Thorax—well formed—No fracture of ribs. Larynx, glottis, trachea and bronchi empty. Hyoid bone not broken pericardium contained 8½ oz. of dark fluid blood, with a tear in the posterior surface corresponding to the penetrating wound No. (1) ½ inch by 1/6 inch. Heart weighed 9 oz. All chambers empty. There is a nearly horizontal wound, gaping in the wall of the right ventricle communicating with the chamber of right ventricle ¾ inch by 1/6 inch. The wall of the left ventricle has also an incised gaping wound communicating with the left ventricle.

Lungs—Right lung weighed 12 oz. pale, soft, pleural adhesive to the diaphragm and at the base—few dark blood present in the pleural cavity. Left lung found collapsed weighed 11 oz. 1½ inches above the inferior border there is an incised wound nearly throughout the length horizontally, 5 inches by ¼ inch by ¼ inch on the external surface puncturing the external surface at both the ends leaving a narrow tag of lung tissue at the posterior and anterior(?) first boder of external surface wound ¼ inch by ¼ inch respectively corresponding to the penetrating wound No. (1) described previously—fluid blood in the pleural cavity.

Adbomen—Symmetrical slight distension—fat 1½ inches thick liver enlarged, pale, weighed 54 oz. Gall bladder full. Spleen soft, pale, weight 3 oz. Right kidney 4 oz. Left kidney 4 oz. Stomoch with contents weighted 6 oz. and contained thick fluid like substance, resembling that of conjee—large intestines contained gas and faecial(?) matter. Appendix 4 inches long urinary bladder contained 8 oz. of urine. Penis—signs of having been circumcised sometime ago with a chronic ulcer on the glans penis.

Scalp: Soft tissues cut to the depth of the skull bone corresponding to injury No. (3). No fracture of skull bones. Brain—pale weighed 48 oz.

Opinion as to cause of death.—The deceased would appear to have died of shock and hæmorrhage due to multiple injuries to the vital organs (left lung and heart).

Mangalore
8—10—1952.

(Signed) E. S. Jacobs,
Civil Assistant Surgeon.

List of material objects.

IN THE COURT OF SESSION, SOUTH KANARA DIVISION.

Sessions Case No. 2 of 1953.

(Preliminary Register Case No. 13 of 1952 on the file of the Stationary Sub-Magistrate, Mangalore.)

Mark given in the Sessions Court.	Mark given in the order of Commitment.	Item of reference in the letter to the Chemical Examiner.	Item of reference in the letter to the Serologist.	Mark given in the report of the Serologist.	Description.	Remarks.
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	1	3	III	..	A dagger.	Produced by P.W. 9 Immanuel Bangera before P.W 13.
..	2	..	..	..	Rubber shoes.	Found in front of the tea shop of P.W. 7 Chandappa at the time of inquest and seized as per observation yadast. Exhibit P-6 of the lower Court.
..	3	..	..	..	Shirt.	
..	4	..	..	..	Banian.	
	5	2	II	29	Blood stained dhothi worn by the deceased.	Seized from the body of the deceased at the time of inquest.

R T 32—6 and

Mark given in the Sessions Court.	Mark given in the order of Commitment.	Item of reference in the letter to the Chemical Examiner.	Item of reference in the letter to the Serologist.	Mark given in the report of the Serologist.	Description.	Remarks.
(1)	(2)	(3)	(4)	(5)	(6)	(7)
	6	1	1	28	Earth scraped from the scene of offence. (1)	Seized by the Circle Inspector of Police, P.W. 14 as per observation yadast Exhibit P-6 of the lower Court.

Court of Session, South Kanara.
Mangalore,
11—2—1953.

(By order)
(Signed) ———,
Sheristadar.

Appeal Memo.

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Criminal Appeal No. 110 *of* 1953.

Between

Vasu Samagara ... ... *Appellant*

and

The State ... ... *Respondent.*

Appeal under Section of the Code of Criminal Procedure Code.

On being highly aggrieved by the sentence and judgment of the learned Sessions Judge of South Kanara in Sessions Case No. 2 of 1952 on his file the appellant begs to prefer this appeal on the following among other grounds :—

1. The judgment of the Court below is contrary to facts, circumstances, probabilities evidence in the case and is irregular and not sustainable at law.

2. The lower Court failed to appreciate that the evidence of prosecution witnesses was that of a fight and struggle between the deceased Aithappa and Koragappa and that the deceased Aithappa removed his shoes and shirt in a challenging mood. The lower Court failed likewise to appreciate that even according to the prosecution that as soon as the accused so fighting fell dead, the said Koragappa ran away and is absconding since then. The lower Court failed to appreciate that the said Koragappa even now absconding, was treated as and accused by the Police, and that there was no referred charge-sheet so far against him, and that the case against this appellant is cooked up as only an apology for failing to trace the real culprit Koragappa and is highly artificial.

3. The lower Court failed to consider and appreciate the statement of the accused, and erred in failing to appreciate that there was previous enmity between prosecution witnesses Allu Minezes, Gregory Minezes on account of a fight over the arrears in respect of the sale of arrack by the said prosecution witnesses Allu and Gregory sometime before the offence and that they had therefore vowed to land the accused in trouble some day. The lower Court failed to realise that prosecution witness Allu Minezes ignorence of any previous contact of the accused, was incredible,

was inconsistent with the familiar part alleged to be taken by prosecution witness Allu in catching the armed accused by hand, taking him to a distance and taking an assurance that the accused would not quarrel thereafter. The lower Court should have appreciated that Gregory was convicted in a previous case for the manufacture of arrack and possession of distillery.

4. The lower Court failed to appreciate that the so-called eye-witnesses were of a cheap sort belonging to a lower strata of society and were an interested set deposing at the instance of prosecution witness Allu and Gregory, on whose evidence it was unsafe to base a conviction. Prosecution witness Francis Minezes was the nephew of P. A. Allu and prosecution witness Gregory was the cousing of prosecution witness Allu, and these in turn were the customers of prosecution witness Chandappa and prosecution witness Narayana was prosecution witness Chandappa's brother while prosecution witness Babu Belchada was prosecution witness Chandappa's sub-tenant. Excepting this interested set there were no other natural witnesses, no one passing either by the road in front or coming to the coffee hotel, all this half an hour the struggle went on although immediately after the offence, number of people came and saw the dead body.

5. The lower Court likewise failed to appreciate that both prosecution witnesses Francis Minezes and Gregory Minezes have not been mentioned as witnesses in the first information report.

6. The lower Court failed to appreciate that P.W. 1, Chandappa admitted in cross-examination that he came to know that the accused was arrested at Kadri in Mangalore on the day of the offence at about 8-30 p.m. which substantiate the version of the accused that he was arrested that day at about that time, and that he was in Police custody till the 7th, without being produced before the Magistrate for purposes best known to the Police. The said statement of prosecution witness, Chandappa about the arrest at Kadri on the day of the offence gives the lie direct to the version of the prosecution, that the accused travelled in the lorry of prosecution witness, Bangara,

or that M.O. 1 was found there or that the accused was arrested at Arkula on the 6th. The said evidence of the lorry driver who is admittedly afraid of the Police is very artificial and the part attributed to accused waiting till the following morning in Mangalore and on the highway is inconsistent with the course of conduct of a really guilty men when contrasted with that of Koragappa still absconding.

7. The lower Court failed to appreciate that the motive attributed to the accused to commit the offence is incredible. The lower Court failed to appreciate likewise that the prosecution failed to prove that the accused had any past dealings or intimate contact of the deceased or to make out that the deceased was in any position to give any help to the accused. The evidence of prosecution witness, Jacob Iqulabal Khan, that the accused did not engage a lawyer and except denying the offence did not contest the prohibition case would falsify the prosecution version that the accused made the sort of reference, and request at P.W. 1's hotel, and that the consequences followed on the deceased's refusal to help the accused in the prohibition case.

8. Likewise the lower Court should have appreciated that a dagger like M.O. 1 uncovered and unfoldable and with a sharp edge cannot be conveniently tucked up in the waist of the accused although his movement from Mangalore to P.W. 1's shop, a distance of nearly six miles, and while sitting in the coffee hotel or in the verandah without the danger of the accused himself being hurt by that. Further the lower Court failed to see that M.O. 1 is a weapon commonly available anywhere with particular marks of identification, and is simply secured for the occasion by the Police and the identification by the prosecution witnesses of the said M.O. 1 which is said to have been drawn by the accused suddenly at the time of offence, bespeaks the dramatised version of the prosecution and the anxiety of the prosecution witnesses to utter falsehood.

9. The lower Court failed to see that if in fact there was any premeditation on the part of the accused in carrying M.O. 1, the accused would have broached the prohibition case topic in some lonely, out of the way place

while a passing to Neermerga from Mangalore instead of speaking in a coffee hotel as to be anxious to create evidence against himself.

10. The lower Court failed to appreciate that for avoiding a minor punishment in a prohibition case, which the accused wanted to avoid, that he committed so serious a punishment as this by committing the offence, is inconceivable.

11. The lower Court likewise failed to appreciate that the prosecution version as to where this topic regarding prohibition was broached, was not fixed and the prosecution presenting three different versions, viz., that it arose in the hotel outside in the verandah and by prosecution witness, Gregory that the talk opened in the public road.

11-a. The lower Court failed to appreciate that if the topic did not arise in half an hour's coffee taking and they parted will (?) the deceased paying for the coffee, the version that it occurred immediately after is incredible.

12. The lower Court should have appreciated the part attributed to prosecution witness, Allu is incredible, and that when the accused wriggles and escapes from him after being taken half a furlong prosecution witness Allu straight proceeding home without even looking back or attracted by the cry raised by prosecution witness, Babu Belchada is an artificial version.

13. The lower Court should have appreciated that to the fight between Koragappa and the deceased, the part of this accused who was never present, was an artificial introduction to give the go-bye to Koragappa and to wreak the vengeance of prosecution witness, Allu and prosecution witness, Gregory on this accused, by the procured evidence of the test of the alleged eye-witnesses.

14. The lower Court should have held that the prosecution went wrong in withholding the material evidence of the deceased's wife and of the Court, clerk examined before the Court of inquiry.

15. The lower Court in any event should have appreciated even as the evidence as accepted by it stood, that the deceased having removed his shoes and shirt and said

"have you brought me to kill" and thereafter offered to be killed, only opened himself to the risk of being killed, coming under exception V to Section 300, and that the whole affairs having arisen under sudden provocation or in the course of a dispute, the offence came either under exception I or Exception IV of the said Section 300, I.P.C.

It is therefore prayed that for the above and for other reasons patent in the case this Court may be pleased to acquit the appellant in the interests of justice.

Mangalore, 9—2—1953.

(Signed in vernacular) Vasu Samagara,
Appellant.

Certified that the contents have been translated in his vernacular, explained to him and acknowledged by him to be correct.

(Signed)————,
Superintendent,
Central Jail, Cannanore.

(True copy)

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Case Diary.

Mangalore East Station Cr. No.80/52. S. Kanara Dist.

Date and place of occurrence - 4-10-52. Neermarga village 8 miles East.

ASSISTANT SECRETARY TO THE GOVT. OF MADRAS HOME DEPARTMENT
MAY 3

Offence:- 302 I.P.C.

4-10-52.

I. 4-10-52.
II. Babu Belchada s/o Appayya Belchada of Bondanthila.
III. Accd.
1) Vasu Samagara.
2) Koragappa Poojary.

IV and V. Nil.

VI. F.I.R.

P.Ws. examined.

I. Babu Belchada, s/o Appayya Belchada, Bondanthila village.
2) Chandappa Poojary, s/o Aithappa Poojary, Neermarga.
3) Narayana Poojary, B/o. P.W. 2.
4) Allu @ Alphanso Menezes, s/o Rosario Menezes Neermarga.
5) Gregory Menezes, s/o Jockim Menezes, Neermarga.
6) Francis Menezes, s/o Salvodore Menezes, Neermarga.
7) Chandravathi, w/o Deceased Aithappa Neermarga.
8) Mohan, s/o Deceased.

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The accd. and deceased were friends and suspected to be engaged in bringing liquor from Neermarga village and selling the same at Mangalore. AI was caught with liquor by the Proby.S.I. and a case is pending. On 4-10-52, both the accused and deceased visited the tea shop of P.W.2, had tea from there, and began to talk about the case in which AI was involved. Hot words appear to have been exchanged. AI being under the impression that it was the ~~accused~~ deceased who gave information to the Prohibition S.I. which led to his arrest. P.W.2 told the deceased and accused not to quarrel from the shop and asked them to go away. All left continuing to talk loudly. A2 said that all should join together to contest the case but the deceased refused to have anything to do with it. Then AI took out his knife and exclaimed, I shall go to jail, but only after killing you. P.W. 4 who was nearby, fearing that AI was serious in his threat, led him away to a distance of about 100 yards. The deceased immediately threw away his slipper and shirt and remarking whether he was brought here to be killed. Grappled with A2-AI got himself freed ~~fw~~ from P.W.4 and ran to the scene and stabbed him on the head and side as a result of which the deceased fell down dead. AI and A2 ran away. P.W.I who has a tailoring shop near P.W.2s' shop went to the Village Magistrate and not finding him, came to the Police station and reported the matter at 3 p.m. P.W.2 went to inform the wife of the deceased. P.W.1's report runs thus.

"I am a native of Bondanthila village. I have a tailoring shop at the Neermarga. I came to the shop in the morning and return in the evening. Today

4-10-52 at about 10-30 a.m. Aithappa Poojary of Kadri, Koragappa Poojary of Bendoor and Vasu Samagara of Bendoor came to the tea shop of Chandu Poojary situated close to my shop in the same building. These three had coffee and sitting in the varrandah began exchanging hot words. Koragappa Poojary grappled with Aithappa and went to the other side of the road. Vasu Samagara had a knife that cannot be folded. Allu Menezes then led Vasu Samagara saying that you should not create trouble, away to a distance of about ½ a furlong Koraga and Aithappa struggling one against the other. Vasu Samagara freed himself from Allu's hold, and with the knife he had, he stabbed Aithappa, who consequently fell. I and others went to the place but Aithappa had died. Koragappa and Vasu ran away towards Pedamalai side. I directed Chandu Poojary's brother to remain near the dead body and Chandu Poojary was sent to inform Aithappa's family. I went to the Village Magistrate but learnt that he had gone to Mangalore and came to the station to report. The stabbing took place at about 11-30 a.m.

I received the F.I.R. at 4-15 p.m. on 4-10-52 and reached the scene with the S.I. at 5 p.m. and held the inquest. The inquest report is herewith. At the inquest the following p.ws. were examined and their statement runs as follows.

P.W.1. Babu Belchada stated as follows - I am tailor having a shop in Neermarga. s/o Appayya Belchada

Today at about 10-30 a.m. deceased Aithappa and accused Vasu Samagara and Koragappa Poojary came to the tea shop of P.W.2 Chandu Poojary, which is close to my tailoring shop and they had coffee. They sat in the varrandah and began talking in a loud tone exchanging hot words, and then Koragappa and Aithappa grappled each other and reached the other side of the road. Vasu Samagara took out his knife. At that time, Allu Menezes led Vasu Samagara away to a distance of ½ a furlong and said that he should not create any troubles At that time Koragappa and Aithappa were pushing and grapling with each other. Then Vasu Samagara freed himself from the hold of Allu Menezes and ran to the spot and stabbed Aithappa who fell down and died. I shouted 'Don't do that. Koragappa and Vasu ran towards Pedumale side. I went to the place where Aithappa was lying with Chandu and found him dead. Many people assembled there. Among the crowd were Francis and Gregory. I directed Chandappa to inform the wife of the deceased and his brother Naravana to guard the dead body. I went to the Potail and could not find him there and I went to the Police Station

and informed the matter.

P.W.2 - Chandappa Poojary, s/o Aithappa Poojary stated as follows -

I run a tea shop close to the shop of P.W.1. My brother P.W.3 Narayana is helping me to run the hotel. At 10-30 a.m. today Aithappa of Kadri and Vasu Samagara of Bendoor and Koragappa came to my tea shop, had tea and eatables for which Aithappa paid. They came out and Vasu Samagara said to Aithappa, "you gave information and got me arrested with arrack and how can I trust you. Anyway I am going to jail but I will kill you and then go to jail." Then I told them not to quarrel from and create troubles in the shop but asked them to go away. They left the shop and Koragappa told Vasu Samagara that they would help to contest the case. At that time Aithappa told him that he would not help them in the case. ' Then Vasu Samagara took out a knife and said that ' I will kill you and then go to jail'. Allu Menezes who was on the road led Vasu away to some distance. Then deceased Aithappa exclaimed "Is it for this purpose that I was asked to come here", and removed his shoes, shirt and baniyan and grappled with Koragappa saying "then kill me". Then Vasu Samagara freeing himself from Allu Menezes ran to the spot and he stabbed the deceased on the head and on the left side and as result of which Aithappa fell down. Koragappa and Vasu ran to Padumale side. When I went to the spot Aithappa was found dead. Gregory and Franscis were nearby and have witnessed the stabing. Many people assembled there. P.W.1 went to the Potail. I went to inform the deceased's wife and my brother Narayana was asked to guard the dead body. I met Ahamad Beary and with him went to the deceased's wife and told her about the occurrence.

P.W.3 Narayana Poojary ~~berht~~ brother P.W."2" states as follows:-

"I work in P.W. 2's tea shop. At about 10-30 a.m. Aithappa, Vasu and Koragappa came to the tea shop. Aithappa and Vasu Samagara began exchanging hot words regarding a case. Then P.W.2 his brother warned them not to create troubles in the hotel. They went out continuing to talk loudly He heard Vasu Samagara saying to Aithappa that he would kill him before going to jail and took out his knife. Then Allu Menezes led Vasu Samagara to a distance. Then Aithappa said "Is it for this purpose I was brought here, If so kill me." and then removed his shoes, shirt and baniyan and grappled with Koragappa. That time Vasu Samagara ran back after freeing himself from Allu Menezes and stabbed the

deceased on his head and side. The deceased fell down. Vasu and Koragappa ran towards Pedumale side with knife. Gregory and Franscis also were seen standing there. I guarded the dead body."

P.W.4 Allu Menezes @ Alphanso Menezes, s/o Rosario Menezes states as follows:- "I came to take tea this morning. At that time Vasu Samagara, Koragappa and the deceased were in the tea shop. I know them before. I heard them quarrelling over an arrack case. Chandappa at that time warned them and asked them to go away. They went out continuing the quarrel. I came out after my tea. The Koragappa said we (Koragappa and Aithappa) would join together to contest your case. Aithappa said that he would not join them. Vasu then said that he would kill Aithappa and then go to jail and then took out his dagger like knife. Fearing further troubles I led Vasu away to 100 yards. Then Vasu said he will not create trouble, and that this is only to threaten andfreed himself and ran back. I went home. Later on I knew that Vasu stabbed Aithappa and killed him.

P.W.5 Gregory Menezes, s/o Jockhim Menezes states as follows:-

"I live close to the shop of P.W.1. While I was going to my field this morning at about 10-30 a.m., I saw the deceased Aithappa, Vasu and Koragappa quarrelling and exchanging hot words in front of the tea shop. I know them before. I heard Aithappa say to Vasu "I will not help you in your case." Then Vasu said that he would kill Aithappa and then go to jail and took out his knife. Then Allu Menezes led Vasu away fearing troubles. Then Aithappa threw off his shirt, baniyan and shoes saying "Is it to kill me, that you have asked me to meet here" and grappled with Koragappa. At that time Vasu got himself freed from Allu Menezes and ran to the spot and stabbed Aithappa on his head and side. Aithappa then fell down. Vasu and Koragappa ran to Pedumale side. When I went near Aithappa he had died.

P.W.6 Francis Menezes, s/o Salvadore Menezes states as follows:-

"I live near the house of P.W.4. I came to the shop of P.W.2 to take tea. I saw the deceased Aithappa, Koragappa and Vasu. Allu Menezes also there. They were exchanging hot words. Chandappa warned them to go away from the tea shop. They went to the road-side continuing the quarrel. Myself and P.W.4 came out after tea. I saw Vasu taking out his knife. Allu Menezes took him away saying do not create troubles. I stood near P.W.5.

The Aithappa asked "Am I asked to come here to be killed?" and removed his shift, baniyan and shoes and grappled with Koragappa. Vasu freed himself from Allu Menezes ran to the spot and stabbed Aithappa on his head and side. Aithappa fell down dead. The accused went away.

P.W.7 Chandravathi, wife of deceased Aithappa. stated as follows -

"Deceased is my husband. He was running a beeda-beedi shop at Mallikatte. It had to be closed on account of loss. The deceased was saying that he would go to Bombay. The accused Vasu and Koragappa used to frequent my house. They used to tell my husband that arrack can be had here and there and used to take him out. Yesterday Vasu came to my house about noon and told my husband that Koragappa Poojary wanted to meet him at Neermarga. He showed a knife and said that it is meant for Prohibition authorities if they catch him again and went away. This morning the deceased left the house saying that he would go to Neermarga. This day at about noon a Hindu and a Muslim came to my house and informed me that my husband was lying dead at Neermarga having been stabbed by Vasu. I came to Neermarga and saw my husband dead with injuries. The deceased is my husband.

P.W.8 Mohan, s/o the deceased stated as follow:-

"Deceased is my father. I am learning fitters' job in Aikal garrage. I go in the morning and come home in the evening. Father's business had to be closed on account of loss. My father used to give me something for my expense now and then. At noon I got information through P.W.2 that my father was stabbed and lying dead. I saw my father lying dead with injuries.

A rough plan of the scene is attached herewith.

The scene of offence is the vacant darakast land in front of the tea shop of P.W. 2 and tailoring shop of P.W.I. Both of them witnessed the occurrence from the place marked D and E and P.W.3 was with P.W.2 in the tea shop. P.W.5 and6 witnessed the occurrence from a distance of 10 yards marked F and G in the plan. The nearest house is that of Machu Souza Bai and Theres who said that they had not witnessed the occurrence but knew about it later on. P.W. 5 lives about 150 yards to the south east of the scene and he was going to the fields when he witnessed the occurrence. P.W. 4 and 6 had tea in P.W.2's shop and were going out when the incident took place. The other houses marked in the plan are far away and none of the inmates saw the occurrence. Blood stains

were found in 5 spots in patches on the ground near the places where the deceased accused was lying dead. In 2 places, there was clotted blood. The cloth worn by the deceased was blood stained. The distance between the shop of P.Ws. 1 and 2 to the spot where the deceased lay is 22½ and 23 yards. The rubber slipper worn by the deceased and the shirt and the baniyan were found lying to the east of the road about 5 yards to the East of the scene. The scene is about 6 yards to the West of the road. The blood stained earth has been recovered to be sent to the Chemical Examiner. The S.M. is being requested to send the blood stained articles for Chemical examination. The shirt and the slippers recovered from the spot were shown to the P.Ws. and they identified these things as belonging to deceased and worn by the deceased when they saw him alive.

The body was sent for P.M. in charge of P.C. 145 at 8 p.m. Enquiries were made to find out the sources from where the accused and deceased used to buy arrack but none is volunteering to give any information.

P.Cs. 422 and 208 were already deputed to arrest the accused before we started, as the accused was known to them personally in Bendoor and other parts.

A1 is a K.D. of B1 station. He has his father working in the Maidan road and sleeping on the varandah of the shop. He has an aunt at Kudroli. He is not on visiting terms with her. He has no house of his own. He works at Bendoor in a varandah. He is always found associating with the deceased and Koragappa. He has married in Belthangady.

A2 also belongs to Bendoor and is reported to be living with his mother and other members of the family. He has no work and is reported to be earning his livelihood by sale of liquor.

Closed the investigation at 11.30 p.m. and halted in Neermarga.

(Sd/-) xxx
Inspr. of Police,
Mangalore.

Statement of witnesses recorded during the inquest in Crime No. 80/52 - Sec.302 I.P.C. on 4-10-52.

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P.W.1. - Chandravathi, w/o the deceased, Aithappa:-

My husband was running a small beeda-beedi shop at Mallikatte. Since two months it was closed. The deceased used to say that he would go to Bombay. I knew Vasu Samagara and Koragappa Poojary. They were frequently coming to my house. They would come to the house and tell my husband that liquor is available here and there and they used to fetch my husband out. Yesterday noon Vasu Samagara came to our house and told my husband to meet Koragappa Poojary at Neerumarga. Both of them were put up at Bendoor. And Vasu Samagara showed a knife and said if Prohibition staff arrest us, this knife is intended for them and he went away. Today morning my husband told me that he was going to Neerumarga and went away. In the noon a Hindu and a Muslim came to me and told me that Vasu Samagara had murdered my husband by stabbing. Accordingly I came to Neerumarga. There I found my husband dead with injuries on his body. Here, the dead person Aithappa, is my husband.

P.W.2 - Mohan, s/o the deceased:- Here who is lying dead is my father. I am undergoing painting training at Aikal Garage. I start in the morning and return in the evening. Due to loss, my father's business was stopped. Today when I came to my house in the noon, one Chandappa and a Muslim came to me and told me that Vasu Samagara had stabbed my father to death at Neermarga. I came and saw him. I found my father dead with injuries on his person.

P.W. 3 - Babu Belchada, s/o Appayya Belchada, Tailor, Neermarga:-

My profession is tailoring at Neermarga. My shop is situated near Chandappa Poojary's hotel. Today morning at about 10:30 a.m., the deceased Aithappa accompanied by Vasu Samagara and Koragappa Poojary took tea in the Hotel of Chandappa Poojary. And after that they sat on the Varandah of the Hotel and started abusing each other. Then, Koragappa pushed Aithappa to the other side of the road. Then, Vasu Samagara took out a sword-like knife. At that time, Allu Menezes told Vasu Samagara not to quarrel here and took him half a furlong away from here. Then Koragappa and Aithappa were pushing each other. By that time, Vasu Samagara managed to escape from the hands of Allu Menezes and ran towards Aithappa and stabbed Aithappa with the knife which he (Vasu Samagara) was holding then.

W8

He had stabbed him more than once. Then I got frightened and cried out to them not to do like that. Then Aithappa fell on the ground. Koragappa and Vasu Samagara went to Pedamale. I, Chandappa and others went there and saw. Then Aithappa was dead. Many people gathered there. Among them were, Gregory, Francis etc. Chandappa asked his brother to stand near the corpse and went to the house of the deceased to intimate about his death. I went to the house of the Potail (Village Magistrate). Potail was not there. From there I went to the Police Station. At Police Station I have reported the matter and have given a statement to this effect. I have also affixed my signature to the statement.

P.W.4 - Chandappa Poojary, s/o Aithappa Poojary, Neermarga.:-

I am running a coffee hotel near P.W.3's shop. My younger brother Narayana is assisting me in the hotel. On 4-10-52 at about 10.30 a.m., Aithappa, Koragappa and Vasu Samagara, came to my hotel and took tea. Aithappa paid the money. Then, Vasu Samagara told Aithappa that he was instrumental to the seizure of liquor from him and as such he could not be believed. He also said, any how, he is going to jail and that he would go to jail only after murdering Aithappa. At that time I told them that they should not quarrel in the hotel and should leave the place at once. While they were going out, Koragappa told Vasu Samagara that both of them would conduct his case. Then Aithappa said that he would not help them to conduct their case. Then Vasu told Aithappa that he would go to jail after murdering him and took his knife. Then Allu Menezes was on the road. He told Vasu that it was bad for them to quarrel and took Vasu Samagara with him. Then Aithappa asked them whether they have asked him to come here, just to murder him and after telling this, he threw away his shoes and also removed his shirt and banian and threw them away and asked them to kill him. Then Koragappa and Aithappa started quarrelling. Then Vasu Samagara escaped from the hands of Allu Menezes and ran towards deceased Aithappa and stabbed on his head and right side of the chest. Aithappa fell on the ground there itself. Koragappa and Vasu ran towards Pedamale. When I went to see Aithappa I found him dead. Gregoy and Francis were there when the deceased was stabbed. After that some people gathered there. I sent P.W. 3 to the house of the Potail and posted my brother Narayana to guard the corpse and I went to the house of Aithappa to

intimate the matter. On the way I met Ahmad Beary and we both went to Aithappa's wife and told her about this.

P.W.5 - Narayana B/o Chandu Poojary:-

I am working in the hotel of P.W.4 Chandu (Chandappa) Poojary. On 4-10-52 at about 10.30 a.m., Aithappa, Koragappa and Vasu Samagara came to our hotel and took tea and went away after paying money. While they were coming out Vasu Samagara and Aithappa started quarrelling. They were talking about the case. P.W.4 asked them not to quarrel there but to leave the hotel. Then they went out talking about. There, Vasu Samagara took out a knife and said that he would go to jail only after murdering Aithappa. Then Allu Menezes took Vasu Samagara with him. Then Aithappa asked Koragappa whether they have fetched him here just to kill him and so saying removed his shoes, shirt and banian and threw them away. Koragappa and Aithappa started rolling on each other. Immediately, Vasu Samagara came there running and stabbed Aithappa on his head and right side of the chest. Aithappa fell on the ground. Koragappa and Vasu with his knife in his hand ran towards Pedamale. After that, I saw Gregoy and Francis standing nearby. After posting me near the corpse, P3 went to the house of the potail and P.W.4 went to the house of the deceased. Till the arrival of Police, I was guarding the corpse.

P.W.6:- Allu Menezes (Alphons Menezes), s/o Rozario Menezes, Kiliye, Neermarga village:-

On 4-10-52 in the morning I had gone to the hotel to take coffee. Then Vasu, Koragappa and Aithappa, were in the hotel of P.W.4. I knew them. When I was taking coffee they were quarrelling about a liquor case. Then Chandappa told them they should not quarrel and asked them to leave the hotel. They went out quarrelling with each other. I went out after taking coffee. Then Koragappa told Vasu Samagara that they both would conduct his case in the court. But Aithappa said that he was not a party to the case. Taking out a knife, Vasu told Aithappa that he would go to jail only after killing him. Assuming that they would resort to fighting, I took Vasu towards my house. After having passed about 100 yards, Vasu Samagara told me that they would not fight and it was all said only to frighten them and having said this he managed to get out of my fold and ran away. I went straight home. After that, I came to know that Vasu Samagara stabbed Aithappa to death.

P.W.7:- Gregory Menezes, s/o Johni Menezes, Neermarga:-

I am living in my house situated near the shop of P.W.3. Today morning at about 10.30 a.m., when I was going to my field, and when I reached P.W.4's hotel, Aithappa, Koragappa and Vasu Samagara, all these three people were abusing each other in front of P.W.4's hotel. I knew them. Then Aithappa said that he was not a party to their case. Immediately Vasu Samagara told Aithappa that he would go to jail after killing Aithappa and so saying he took out a knife. Then P.W.6 took Vasu Samagara with him telling that they should not quarrel. Then Aithappa said whether they have asked him to come there just to kill him and having uttered these words he removed his boots, shirt and banian and threw them away and picked up quarrel with Koragappa and both of them started rolling. By that time Vasu Samagara escaped from the holds of Allu Menezes and ran towards Aithappa and stabbed Aithappa on his head and side of chest with his knife. Aithappa fell on the ground. Koragappa and Vasu ran towards Pedamale with the knife. When I went to see Aithappa I found him dead.

P.W.8:- Francies Menezes, s/o Salvedore Menezes:-

My house is situated near the house of Allu Menezes. Today morning I had gone to the hotel of Chandappa to take tea. Aithappa, Koragappa and Vasu Samagara were present in the hotel. Allu Menezes was also present there. They were abusing each other. When the noice became a big nuisance, Chandappa asked them ga to go out. Then these three persons went out scolding one another. I and Allu Menezes came out after taking coffee. Then, I saw Vasu Samagara taking out a knife. Allu took him with him telling that they should not quarrel. I stood near Gregory. Then Aithappa asked them whether they have asked him to come there just to kill him and after uttering these words asked them to kill him and he removed his boots, shirt and banian and threw them away and started quarrelling with Koragappa. Vasu Samagara escaped from the hold of Allu Menezes and ran towards Aithappa and stabbed him on his head and side of the chest with his knife. Aithappa fell on the ground. Koragappa and Vasu ran away towards Pedaruva. When I went near Aithappa, I found him dead.

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Report of investigation on the dead body of Aithappa Poojari, s/o Nagappa Poojari of Kadri held at Neerumarga on 4-10-52.

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(1) Bonaventure Lobo, s/o Francis Lobo, Christian, Merchant, Neerumarga.
(2) Julian Rego, s/o Antony Rego, Christian, Band Master, Padavu.
(3) Santha Alva, s/o Ishwara Alva, Hindu, Bunt, Hotel Keeper, Neerumarga.
(4) Jhon Pinto, s/o Joseph Pinto, Christian, Cultivator, Neerumarga.

II. Aithappa Poojari, male, 38 years, Billava, nil, s/o Nagappa Poojari, Kadri.

III. The deceased was first found dead by Babu Belchada and tea shop keeper Chandappa Poojari and others on 4-10-52 at about 11.30 a.m., about 15 feet to the west of the road in front of the shops of Babu Belchada and Chandappa Poojari.

IV. Babu Belchada, Chandappa Poojari and Narayana Poojari were present in front of their shops when the deceased was stabbed to death by Vasu Samagara of Bendoor.

V. Height - 5'7½"; dark complexion, cropped hair, well-built body.

Identification marks:- (1) A black mole on the back 4" above the right hip.

VI. Married male.

VII. The body was stretched out north to the South, head southwards, Rigor mortis present, skin peeling of, left eye closed, right eye half-opened, left hand resting on the right hand near the palm, the body resting on its right side. The following injuries were noticed:-

(1) A knife wound 2½" long on the back portion of the head about 4" above the right ear.

(2) A small wound about 1" to the left, near the left eye.

(3) An abrasion like nail marks 1" below the shoulder blade on the outer aspect of the left upper arm.

(4) A penetrating wound 3" long on the outer ~~as-p~~ aspect of the left side 3" to the back.

Properties:- (1) a white yarn waist chord round the waist.

(2) A four yards white double dothi with black borders, blood stained.

VIII. The body was found lying about 15 feet to the west of the Bendoor-Kavoor road in front of the tea shop of Chandappa Poojari and the tailoring shop of Babu Belchada. There is dark dried blood stains on the ground at five spots near the dead body. In two places the blood is found clotted near the body. The dothi worn by the deceased is highly blood-stained. On the eastern side of the road 6 feet from the road to the east in front of the tea shop of Chandappa Poojari are found a pair of Bata Rubber slippers and a cream-colour poplin jubba and a sleeveless white banian with 18 Ramanianda beedies in a packet inside the jubba pocket; Not in water.

(a) Nil. (b) Nil. (c) Nil.

IX. The deceased would appear to have died due to knife injuries found on his person inflicted by Vasu Samagara.

X. By violence with a 'Kanjar' (dagger-knife).

XI. (a) Eye witnesses Babu Belchada, Chandappa Poojari and his brother Narayana Poojari, Gregory Menezes and Francis Menezes saw Vasu Samagara of Bendoor stabbing the deceased Aithappa Poojari with a 'kanjar' (dagger-knife) and they also saw Koragappa Poojari and the deceased pulling and pushing each other. Vasu Samagara caused the death of the deceased with a knife.

(b) Nil.

XII. The corpse is sent for medical examination to ascertain the details of the cause of death.

XIII. The corpse is sent for medical examination to ascertain the details of the cause of death under the orders of the Inspector of Police in charge of P.C. 145 Ramakrishna at 20.00 hrs. on 4-10-52.

XIV. The body is sent for Post Mortem examination.

XV. The Panchayatdars are of opinion that the deceased Aithappa Poojari was stabbed to death with a 'Kanjar' (dagger-knife) by Vasu Samagara of Bendoor while the deceased and the Koragappa Poojari were pulling and pushing each other in the course of a quarrel.

XVI. (Sd/-) Bona Venture Lobo.

" xx

" xx

" John Pinto.

XVII. " xxx 4.10.52.

xxx 4.10.52.

XVIII. (a) Name and residence of the deceased known.

(b) Nil.

XIX. to XXV apply to Railway Police.

XXVI. Investigation commenced at 5 p.m. on 4-10-52.

Investigated closed at 8 p.m. on 4-10-52.

(Sd/-) xxx 4-10-52.
Inspr. B.

(Sd/-) xxx 4.10.52.
S.I.B3.

(53) 53

Case Diary.

Police Station. B3. F.I.R.No. 8052. South Kanara District.

Date and place of occurrence - 4-10-52. Neermarga.

Section 302 I.P.C.

5-10-52.

I. 4-10-52.

II. Babu Belchada,
s/o Appayya Belchada.

III. Accused.

(1) Vasu Samagara,
s/o Gopala Samagara,
Bendoor.
(2) Koragappa Poojari,
s/o Jarappa Poojari,
Bendoor.

IV and V Nil.

VI. C.D. d/-4.10.52.

Deceased.

Aithappa Poojari, s/o
Nagappa Poojari,
Kadri.

VII. Wit.Questioned.

Iqbal Khan, S.I. of
Prohibition, Padavu.

Today enquiries were made at Neermarga but the accused could not be located. A.S.I. visited the scene and investigated and gave instructions.

Thence I came to Padavu, met the Prohibition Sub-Inspector Iqbal Khan and questioned him regarding the prohibition case against Vasu Samagara, accused in this case. He stated that on 26-9-52 at about 3 p.m. that the accused whom he knew already before and who was suspected to be dealing in arrack was likely to be travelling in one of the buses with arrack transported from Kulshekar side. He waited and stopped No. 4 route bus of Mangalore Automobiles Ltd., and found the accused Vasudeva Samagara in the front seat concealing under his dhoti an air pillow which contained about 15 bottles of arrack. The accused Vasudeva was arrested and the arrack seized and the case is pending before A.F.C.M. in Padavu station Crime No.114/52 u/s 4 (1) (a) M.P.Act. He further added that the deceased was not his informant at all.

Vasudeva Samagara (A1) has a history sheet in Mangalore North Station and has the following convictions to his credit.

(1) Released u/s 562 Cr.P.C. by 1st class Bench Court, Mangalore in C.C. 1637/37 dated 9-10-37 in Mangalore Town Crime No. 190/37 u/s 379 I.P.C.

(2) Fined Rs.10/- by S.S.M. (Mangalore) in C.C. 66/38 d/-26-2-38 in Mangalore Town Crime No. 29/38 u/s 379 and 75 I.P.C.

(3)(4)&(5). Detained in Borstal School for 3 years by S.D.M. (Mangalore) in C.C. Nos. 67, 68 and 69/38 dated 22-11-38 in Mangalore Town Crime Nos. 216, 210 and 221/38 u/s 379 and 75 I.P.C. respectively.

(6) One months R.I. in C.C. 1048/50 d/-30-9-50 in Mangalore North Crime No. 237/50 u/s 380 and 75 I.P.C. by S.S.M. Mangalore.

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(7) One month's R.I. in C.C. 1063/50 d/-30-9-50 in Mangalore South Station Crime No. 151/50 u/s 380 and 75 I.P.C. by S.S.M. Mangalore.

X (8) Two months R.I. in C.C. 1064/50 dated 30-9-50 in Mangalore North Station Crime No. 246/50 u/s 380 and 75 I.P.C. by S.S.M. (Mangalore.)

(9) One month's R.I. in C.C. 1065/50 dated 30-9-50 in Mangalore North Station Crime No. 241/50 u/s 380 and 75 I.P.C. by S.S.M. (Mangalore.)

(10) Two months R.I. in B.C.C. 1645/51 dated 12-9-51 in Mangalore North Station Crime No. 267/51 u/s 64 M.C.P. Act by Bench Court, Mangalore. I went to the Music hall where the accused Vasudeva used to sleep and enquiries showed that he has not visited the locality at all after the occurence. I also visited A2's house and learned that he has also not visited the locality after the occurence and his whereabouts unknown. I went round to Kadri, Bendoor and Kudroli and made enquiries about the accused but could not get at them.

The following is the copy of the post mortem certificate.

Post-Mortem Certificate.

regarding the body of a male aged about 38 years, named Aithappa Poojari s/o Nagappa Poojari.

Requisition received at 11 p.m. on 4-10-52 from the Inspr. of Police, Mangalore with his letter number nil dated 4-10-52. Body incharge of P.C. No. 145 named Ramakrisnna.

Identification and caste marks:-

(1) A dark mole on the right side of the chest 5" below right axilla.

(2) A dark mole 12" below the top of right shoulder on the back.

(3) A horizontal scar 2½" just below. Zipho-starnum.

The body was first seen by the undersigned at 9 a.m. on 5th October 1952.

Its condition then was cold, Rigor mortis passed off in upper limbs but slightly present in the lower limbs. Post mortem commenced at 10 a.m. on 5th October 1952. Appearance found at the post-mortem:- Body of a well nourished adult male, scalp hair cropped, grey and black mixed 3-5" - Rigor mortis passed of in the upper limbs, but slightly present in the lower limbs- Body symmetrical, features el calm, eye lids partially open, jaws clenched, teeth complete, tongue not protruding - no discharge from mouth, nose or ears.

The following external injuries were found on the person.

(1) A horizontal, gaping, incised, penetrating wound situated on the left side of back of chest in the ninth intercostal space posteriorly situated a little mediel to the posterior axillary line, 3½" x 1¼" exposing all the cut soft tissues underlying and the long tissue through the cut portion of the intercostal muscle - clotted blood at the mouth of the wound with blood smear on the back and on the left side.

(2) A nearly horizontal, curved, irregularly incised, gaping wound, situated on the left temple region ¾" x ¼" x ¼" Blood smear streaks on the left side of the face and ear.

(3) An obliquely horizontal incised, gaping wound, ½" to the right side of the median line on the upper part of the occipital region of the scalp 3½" and ¼" bone deep.

Thorax well formed - No fracture of ribs - Larynx, glottis, trachea and bronchi empty- Hyoid bone not broken - Pencarduim contained 8½ oz. of dark fluid blood, with a tear in the posterior surface corresponding to the penetrating wound No. (1) ½" x 1/6" - Heart weighed 9 oz. - All chambers empty. There is a nearly horizontal wound, gaping, in the wall of the right ventricle communicating with the chamber of the right ventricles 3/4" x 1/6" - The wall of the left ventricle has also an incised gaping wound communicating with the left ventricle.

Lungs. - Right lung weighed 12 oz, pale, soft, pleural adhesions to the diaphragm and at the base - fluid dark blood present in the pleural cavity- Left lung found collapsed weighed 11 oz. - 1½" above the inferior border, there is an incised wound, nearly thoroughone the length, horizontally, 5" x ¼" x ¼" on the internal surface puncturing the external surface at both the ends bea. leaving a narrow tag of lung tissue at the posterior and anterior border of external surface wound ¼" x ¼" respectively, corresponding to the penetrating wound No. (1) described previously - fluid blood in the pleural cavity.

Abdomen - Symmetrical slight distonsian - fat 1¼" thick, Lever enlarged, pale, weighed 54 oz. - gall bladder full - spleen, soft, pale, weighed 3 oz - Right kidney 4 oz. - Left kidney 4 oz. - Stomach with contents weighed 6 oz. and contained thick fluid like substance resembling that of conjee - Large intestines contained gas and faecal matter - Appendix 4" long - Urinary bladder contained 8 oz. of urine - Penis signs of having been circumcised

16
52

some time ago, with a chronic ulcer on the glans penis.

Scalp - soft tissues cut to the depth of the skull bone corresponding to injury No. (3) - No fracture of skull bones - Brain pale, weighed 48 oz.

Opinion as to cause of death.

The deceased would appear to have died of shock and haemorrhage due to multiple injuries to the vital organs (left lung and heart.)

Station:-Mangalore.
Dated:5th October 1952.

(Sd/-) E.S. Jacob.
Civil Asst. Surgeon.

The medical officer will be questioned.

(Sd/-) xxx. 5-10-52.
S.I. B3 (Mangalore East.)

(17) 57

Case Diary.

Police Station:- B3. F.I.R. No. 80/52. S.K. District.

Date and place of occurence:- 4-10-52. Neerumarga.

Sec. 302 I.P.C.

6-10-52.

I. 4-10-52.

II.Babu Belchada

III.Accused

(1) Vasu Samagara S/o Gopala Samagara, Bendoor.

(2) Koragappa, s/o Jarappa Poojari, Bendoor.

IV and V Nil.

VI.C.D.d/-5.10.52.

P.Cs. 435 and 563 who were specially deputed to arrest the accused in this case on 4-10-52, today (6-10-52) arrested the accused Vasudeva Samagara at 3 p.m. at Arkula and brought to station at 6.30 p.m. He was searched and locked up. I questioned him in the lock-up at 21.50 hrs. and he complains no ill-treatment at the hands of the Police. I questioned him regarding the incident and he stated as follows:-

I am a chuckler by profession. I am aged about 30. I was concerned in petty thefts even from my childhood and I was sent to the Borstal School. My father did not like me. So I stopped going to my father. I had involved in theft cases and had undergone imprisonment. Now I do chuckler's work at Bendoor and sleep in the music hall in the upstair of the shop at Bendoor. Since about 2 years I know deceased Aithappa and accused Koragappa. We three are good friends. We used to get arrack from Neermarga and Padavu villages and sell. I used to transport the arrack. Deceased Aithappa and accused Koragappa used to give me a share of the profit. As I was taking a risk in transporting the arrack to the town side. I told Aithappa and Koragappa that something more must be given to me than the usual share. Aithappa and Koragappa refused to give anything more and when I pressed again to give me something more the deceased Aithappa told me that he will see that I am caught by the prohibition staff when I transport liquor for the next time. After three or four days of the talk on 26-9-52 I was transporting 10 bottles of arrack in route No.4 City bus from Kulshekhar side when the bus was checked by the Prohibition Sub-Inspector of Padavu and party at Padavu and the arrack was seized and I was arrested. Afterwards I was released on bail. The case is now pending in the Court. I thought that Aithappa might have given information to the prohibition staff. I wanted to ask Aithappa about this. On 3-9-52 at about noon I went to the deceased's house and told the deceased Aithappa that Koragappa has asked us to meet at Neermarga on 4-10-52 morning and I came to Bendoor. On 4-10-52 at about 8.30 a.m. I met Koragappa at Bendoor and we started together for Neerumarga. At about 10 a.m. we met Aithappa about 2 furlongs away from Bonavanture Lobo's shop in a vacant place at Neermarga. At about 10.30 a.m. we came to the teashop of

Chandappa and took tea and 'Goli baje' for 6 annas andAithappa paid the money. After tea, in the verandah of Chandappa's shop I told Aithappa that "you gave information and got me arrested with arrack and how can I trust you" Anyway I am going to jail but I will kill you and then go to jail. Then Chandappa told us not to quarrel and create troubles in the shop and asked us to go away. We left the shop and Koragappa told me that they will help to contest the case. At that time deceased Aithappa said that he would not help me in the case. I then took out a knife and told Aithappa that "I will kill you and then go to jail". Then Allu Menezes who was on the road led me away to some distance. Then deceased Aithappa exclaimed "is it for this purpose I was asked to come here" and removed his shirt and banian and shoes and grappled with Koragappa saying "Kill me." I escaped from Allu Menezes and came and stabbed deceased Aithappa three or four times with the knife I had. When I was stabbing Aithappa, he and Koragappa were grapling. After he received the stab wounds Aithappa fell down and Koragappa and myself ran towards Padumale side. Id I do not know where Koragappa went. I wandered in the forest of Kudupu and Pachanady and slept in the forest on 4-10-52 and 5-10-52. Today i.e., 6-10-52 I started to Belthangady to go to the Mysore ghats from there. On the way at Padil I saw a lorry going towards Bantwal side and stopped the lorry. The driver stopped the lorry. I told the driver that I want to go to Belthangady urgently and that I have got no money and that I will pay the money at Mangalore tomorrow. The driver asked me to sit in the body of the lorry. I sat in the body on salt bags. Then the conductor called the driver 'Mana' and said let us go. As the lorry started I thought that I will go to Mysore ghats after some time. So, when the lorry reached Arkula I called the driver to stop the lorry. The driver stopped the lorry at Arkula. Then I told him that I want to get down at Arkula as I want to get some money from a person. I got down at Arkula. I have dropped the knife with which I stabbed Aithappa in the lorry among the salt bags. There is no person at Arkula to give me money. The shirt and mundoo worn by me now were the same worn by me when I stabbed deceased Aithappa.

I examined the cloths of the accused and there is no blood mark on it. There is no injury on his body also.

Enquiry about the driver of the lorry 'Mana' discloses that he is a driver employed by a lorry owner of Chickmagalore and that he has gone to Chickmagalore with the lorry. He will be traced and questioned.

(54)

I also made enquiries about A2 at Padavu and Mangalore but could not get any information regarding his present whereabouts. Further attempts are continued.

(Sd/-) xxx 6.10.52.
S.I. B3 (Mangalore East.)

Case Diary.

Police Station:-B3. F.I.R.No. 80/52. South Kanara District.

Date and place of occurrence:- 4-10-52. Neermarga.

Offence:-Sec. 302 I.P.C.

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9-10-52.

(1) 4-10-52.

II. Babu Belchada, Neermarga.

III. Accused

(1) Vasu Samagara, s/o Gopal Samagara, Bendoor.

(2) Koragappa, s/o Jarappa Poojari, Bendoor.

IV and V:-Nil.

VI.C.D. d/-6-10-52.

Enquiries were made about A2 to trace him out. P.Cs.435 and 563 were specially deputed to trace out A2. They gave their special report as follows:- On 7-10-52 they visited Arkula and enquired about A2 with Dharmaraj Shetty, Iddinabba Beari, Koragappa Moe Moily and others and did not get any useful information regarding his present whereabouts. Being late halted at Arkula. On 8-10-52 they visited Bajal Neermarga and Kavoor, villages and enquired about A2 with Ahamed Beari, Sheena Pandita, Poovappa and others and learned that he is reported to be in Thiruvail side. So they immediately went to Thiruvail and made confidential enquiries with Ramappa Belchada, Sheela Souza and others and learned that the accused was known to have spent the previous night in the hill near the house of Dasa Poojari and also came to know that this Dasa Poojari and A2 are friends. Therefore they kept watch near the house of Dasa Poojari but A2 could not be traced. Today they visited Tannirbavi and Pachanady villages and enquired about A2 with Sadananda, Gangayya, Purushothama Pai and others and learned that the accused is in Maroli side. So they proceeded to Maroli and enquired with Hassankutty Beari, Krishnappa, Manjappa Shetty and others but could not trace the whereabouts of A2. They also enquired about the knife in this case but could not get any information about that.

On 7-10-52 I also enquired about A2 at Mangalore and Padavu but was not able to gather any information regarding his present whereabouts. I made enquiries about the driver Mana and learned that he has not returned to his house since he left on 6-10-52.

On 8-10-52 also I made enquiries about A2 at Ullal and Mangalore but could not get any information. I made enquiries about the driver Mana but he has not so far come back. It is also not known to which particular place he went. This day also I made enquiries about the driver and A2. The driver has not returned so far. The driver will be traced without delay and questioned. Attempts are made to trace out A2 also.

(Sd/-) xxx 9.10.52
S.I.B3.

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Case Diary.

Police Station:- Mangalore East. F.I.R.No. 80/52. South Kanara.

Date and Place of Occurrence:- 4-10-52. Neermarga.

Sec. 302 I.P.C.

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10-10-52.

I. 4-10-52.

II. Babu Belchada.

III. Accused

1) Vasu Samagara.
2) Koragappa.

IV and V:- Nil.

VI. 9.10.52.

VII. P.Ws.

10) VIII) Emmanval Bangara @ Mana s/o Dama Bangara, Driver of Lorry MDX. 1647, Kankanady

11) II) James Rodrigues s/o Joseph Rodrigues, Conductor of Lorry MDX. 1647.

This day I continued enquiries about the Driver Mana with Driver Laxmanji, Shrinivas and others and came to know that he is working in Lorry No. MDX. 1647 and he had gone to Chickamagalore and ~~my~~return this day and so I waited for him at Golikatta Bazaar. At about 9 a.m.I saw Lorry MDX. 1647 comming to Bandar side and I stopped the same and questioned the Driver. P.W.10 Emanual Bangara-he stated that on 6-10-52 he left Mangalore in lorry MDX. 1647. He is the Driver of this Lorry, the load of the lorry on that day was salt bags etc. to be taken to Magundi estate in Mysore. The conductor James was also in the Lorry. At about 9 a.m. he reached Padil and a person of Mangalore stopped the lorry and requested him to give a lift upto Belthangady as he wanted to go there urgently. The person also said that he has no money with him. He knows the person and he has seen him in Mangalore but does not know his name. He on hearing this request asked him to get into the body of the lorry. On reaching near Olchilu in Arkula village the person asked the witness that he wanted to get down there as he wanted to take some money from a friend. The witness stopped the lorry and the person got down from the lorry. Then he proceeded to Balahonnoor and reached Magundi Estate in the evening and while unloading the lorry he found a knife (Kanjar) in the lorry. He took it to give it to the person who got into the lorry at Padil. Thinking that the knife may belong to that person. As he could not see the person till now he kept the knife with him. This day when I came to Bunder in my lorry with the knife and as asked by the Police now he produced the same.

So saying he produced the knife before me and I seized the same under a yadast before witnesses.

P.W.11. James Rodrigues when questioned stated that he is the conductor of Lorry MDX. 1647 and went to Magundi on 6-10-52 in Lorry along with P.W.10. Further he speaks in support of the statement of P.W.10 in all points and also stated he has seen the person in Mangalore somany times who got into the lorry at Padil on 6-10-52. This was the same knife which was taken by witness 10 while unloading the goods at Magundi on 6-10-52.

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Today I also made enquiries about A2 but his whereabouts are not known. Further attempts are made.

Closed the enquiry in this case for the day.

(Sd/-) xxx 10-10-52.
H.C. 379.

Case Diary.

Police Station:- B3.(Mangalore East). F.I.R.No. 80/52. South Kanara Dt.

Date and place of occurrence:- 4-10-52. Neermarga.

Offence:- Sec. 302 I.P.C.

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13-10-52. Continued enquiries were made to trace out A2. On 10-10-52 I.4.10.52. H.C. 379 enquired about A2 at Thiruvail and learned that he was II.Babu Belchada. found in Thiruvail village this morning but on further enquiries his whereabouts could not be known. On 10-10-52 H.C. so went III.Accused to Belthangady and enquired about the accused at Hidibettu but (1) Vasu Samagara. (2) Koragappa,s/o could not h get any useful information. On 11-10-52 also Jurappa Poojari, Bendoor. he made enquiries at Belthangady side but did not get any IV. and V:-Nil. useful information.

VI.C.D.d/-9.10.52 Yesterday P.Cs. 247 and 163 who were specially deputed to VII.Witnesses questioned. trace out A2 in this case reported that they visited Bajal 10) Emmanuel Bangera and enquired about A2 with Venkappa Poojari, Abdul Kadri @ Mana,s/o Dama Bangera, driver Beari and others but did not get any useful information. of lorry MDX. 1647, Kankanady. I also visited Neermarga today and enquired about A2 but (ii) James Rodrigues, could not get any useful information. I also showed s/o Joseph Rodrigues, Conductor of lorry the knife seized from witness 10 to witnesses Babu Belchada, MDX. 1647, Mangalore. Chandappa Poojari, Narayana Poojari, Gregory Menezes and and Francis and they identified that this was the same knife with which A1 Vasu Samagara stabbed deceased Aithappa Poojari at Neermarga on 4-10-52 at about 11.30 a.m. I could not see witness Allu Menezes as he has gone somewhere, to show him the knife.

I came to Mangalore and showed the knife to the deceased's wife Chandravathi who also stated that this was the same knife which was shown by accused Vasu Samagara when he (A1) came to her house the previous day of the death of her husband and Vasu (A1) said with this knife in his hand that 'This is meant for the Prohibition Authorities if they catch him again.'

I also questioned the marginally noted two witnesses who were already been questioned and their statements recorded by H.C. 379 on 10-10-52. Both of them corroborated their statements and added that they have nothing more to state.

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Enquiries are made about the accused 2 and informants have been set up at different places to get at him.

(Sd/-) xxx 13.10.52.
Sub-Inspr.of Police,
Mangalore East Stn.

Case Diary.

Police Station:- E5 (Mangalore East). F.I.R.No. 80/52. South Kanara District.

Date and place of occurrence:- 4-10-52. Neermarga.

Offence:- Sec. 302 I.P.C.

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16-10-52.

I. 4-10-52.

II. Babu Belchada

III. Accused

(1) Vasu Samagara

(2) Koragappa, s/o Jarappa Poojari, Bendoor.

IV. and V.Nil.

VI. C.D.d/- 13-10-52.

Enquiries about the absconding accused (2) were made on 16-10-52 by H.C. 203 at Markada with Lakkanna Shetty and others but could not get any useful information.

I enquired about A2 yesterday at Bolma and Ullal with M.S. Bhandari, Veernama and others but could get no useful clue.

Today I visited Bondanthila and enquired about A2 at Bondanthila and Mangalore with Babu Rao, Pakeera Poojari and others and did not get any information.

Today I showed the knife seized from the driver to Allu Menezes (wit.) and he stated that it was the same knife he saw with A1 at Neermarga on 4-10-52 at about 11.30 a.m. and which A1 took out and that seeing this knife he led A1 to a distance of about 100 yards.

Now all the witnesses who had seen the knife with A1 have identified it to be the same seized from the driver.

Earnest attempts are made to trace out A2 also.

(Sd/-) xxx 16.10.52.
Sub-Inspr.of Police,
Mangalore East Station.

I have perused the C.D. and discussed the facts with the investigating officers. I am of opinion that no prima facie case is made out against A2 and that A1 alone may be charged for an offence u/s 302 I.P.C.

(Sd/-) P. Ramachandra Rao.
21-10 - 52.
Asst.Public Prosecutor,I.

(69)

Case Diary.

Police Station:- 53 (Mangalore East). F.I.R. No. 80/52. South Kanara District.

Date and place of occurrence:- 4-10-52. Neermarga.

Offence:- Sec. 302 I.P.C.

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21-10-52.

I. 4-10-52.

II. Babu Bolchada.

III. Accused.

Vasu Samagara.

IV. & V. Nil.

VI. C.D. d/- 16-10-52.

VII. Witnesses questioned:-

Sri E.S. Jacob, C.A.S., Govt. Wenlock Hospital, Mangalore.

This day with the permission of the Court I obtained the knife seized in this case and showed it and questioned the Medical Officer who held the post mortem.

He corroborated the post mortem certificate (copy has already been submitted) and further stated that the injuries on the body of the deceased noticed by him could be caused with this knife.

Today I also consulted the A.P.P.I and he opined that no prima facie case is made out against A2 and that A1 may be charged u/s 302 I.P.C. Hence I have charged this day A1 Vasu Samagara u/s 302 I.P.C. Copy of the charge sheet and memorandum of evidence are herewith submitted.

(Sd/-) xxx 21-10-52.
Sub-Inspr.of Police,
Mangalore North.

Case Diary.

Police Station:- Mangalore East. F.I.R. No. 80/52. South Kanara District.

Date and place of occurrence:- 4-10-52. Neermarga.

Offence:- Sec. 302 I.P.C.

Accused:-

Vasu Samagara, s/o Gopala Samagara, Bendoor, Mangalore.

Charge u/s 302 I.P.C.

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The charge against the accused is that he on 4-10-52 at Neermarga between 10-30 a.m. and 11-30 a.m. did commit murder by intentionally causing the death of Aithappa Poojari, s/o Nagappa Poojari of Kadri by stabbing with a dagger knife and thereby committed an offence under Sec. 302 I.P.C. triable by the Court of Sessions, South Kanara at Mangalore.

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Memorandum of Evidence.

Wit.1 Babu Balchada, s/o Appayya Balchada, Bondanthila.	To prove the occurence and his complaint at the Police station.
Wit.2. Chandappa Poojari, s/o Aithappa Poojari, Neermarga. Wit.3. Narayana Poojari, s/o Aithappa Poojari, Neermarga. Wit.4 Gregory Menezes, s/o Jochim Menezes, Neermarga. Wit.5 Francis Menezes, s/o Salvadore Menezes, Neermarga.	To prove the occurence so far they are concerned.
Wit.6 Allu @ Alphanso Menezes, s/o Rozario Menezes, Neermarga.	To prove that just before the occurence he led the accused a little away to prevent him from attacking the deceased.

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Wit.7 Chandravathi, w/o Aithappa Poojari, Kadri.	To prove that the accused went to the deceased's house the previous day to the occurence and wanted the deceased to meet at Neermarga the next day.
Wit.8 G. Seetharama, P.C. 282 Mangalore East Station.	To prove the complaint of P.W.1 before him.
Wit.9 P.C. 145 Ramakrishna, Mangalore East Station.	To prove the identity of the body for the post mortem.
Wit.10. Sri E.S. Jacob, C.A.S., Govt. Wenlock Hospital, Mangalore.	To prove the post mortem.
Wit.11. Janab Iqbal Khan, S.I.of Prohibition, Padavu.	To prove that a few days prior to the occurence the accused was caught with arrack in his station Crime No. 114/52.
Wit.12. P.C. 435 K. Narayana, Mangalore East Station.	To prove the arrest of the accused.
Wit.13. H.C. 379 P.V. Lewis, Mangalore East Station.	To prove their respective investigation.
Wit. 14. K. Balakrishnan Nair, S.I. of Police, Mangalore East Station.	
Wit.15 Sri M. Govinda Menon, Inspr.of Police, Mangalore.	
Wit.16. Magisterial Head Clerk S.S.M. Court, Mangalore.	To prove the reports of the Chemical Examiner and Serologist.
Wit.17. Emanuel Bangera @ Mana, s/o Dana Bangera, driver of lorry MDX. 1647, Kanakandy.	To prove the production of knife before wit.13 etc.

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(Sd/-) xxx 21.10.52.
Sub-Inspr.of Police, Mangalore East.

MKP/3/5.

True copy

Dy. Supdt. of Police
Dakshina Kannada

T.C. no. 9788/59 in copying
Cond. prisoner Vasu Samagara 15

Pro forma showing the relevant dates of the case.

(1) Date of occurrence: 4-10-52 plior

(2) Date of arrest: 6-10-52

(3) Date on which challan was put up in Committing Court: 21.10-52 x p24(A)

(4) Date of committal order by the Committing Magistrate: 24-12-52 x1

(5) Date of commencement of trial in the Sessions Court: 2.2.53. p11 C.P.

(6) Date of judgment of Sessions Court: 4.2.53 p1(6) C.P.

(7) Date of judgment of High Court: 21.4.53 p15 C.P.

Rec'd 12/5/53.

Case Diary.

Mangalore East Station Cr. No.80/52. S. Kanara Dist.

ASSISTANT SECRETARY TO G...
9 - MAY 19...
HOME DEPARTMENT.

Date and place of occurrence - 4-10-52. Neermarga village 8 miles East.

Offence:- 302 I.P.C.

4-10-52.

4-10-52.

II. Babu Belchada s/o Appayya Belchada of Bondanthila.

III. Accd.
1) Vasu Samagara.
2) Koragappa Poojary.

IV and V. Nil.

VI. F.I.R.

P.Ws. examined.

I. Babu Belchada, s/o Appayya Belchada, Bondanthila village.
2) Chandappa Poojary, s/o Aithappa Poojary, Neermarga.
3) Narayana Poojary, B/o. P.W. 2.
4) Allu @ Alphanso Menezes, s/o Rosario Menezes Neermarga.
5) Gregory Menezes, s/o Jockim Menezes, Neermarga.
6) Francis Menezes, s/o Salvodore Menezes, Neermarga.
7) Chandravathi, w/o Deceased Aithappa Neermarga.
8) Mohan, s/o Deceased.

The accd. and deceased were friends and suspected to be engaged in bringing liquor from Neermarga village and selling the same at Mangalore. AI was caught with liquor by the Proby. S.I. and a case is pending. On 4-10-52, both the accused and deceased visited the tea shop of P.W.2, had tea from there, and began to talk about the case in which AI was involved. Hot words appear to have been exchanged. AI being under the impression that it was the deceased who gave information to the Prohibition S.I. which led to his arrest. P.W.2 told the deceased and accused not to quarrel from the shop and asked them to go away. ALL left continuing to talk loudly. A2 said that all should join together to contest the case but the deceased refused to have anything to do with it. Then AI took out his knife and exclaimed, I shall go to jail, but only after killing you. P.W. 4 who was nearby, fearing that AI was serious in his threat, led him away to a distance of about 100 yards. The deceased immediately threw away his slipper and shirt and remarking whether he was brougnt here to be killed. Grappled with A2-AI got himself freed fm from P.W.4 and ran to the scene and stabbed him on the head and side as a result of which the deceased fell down dead. AI and A2 ran away. P.W.I who has a tailoring shop near P.W.2s' shop went to the Village Magistrate and not finding him, came to the Police station and reported the matter at 3 p.m. P.W.2 went to inform the wife of the deceased, P.W.1's report runs thus.

"I am a native of Bondanthila village. I have a tailoring shop at the Neermarga. I came to the shop in the morning and return in the evening. Today

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4-10-52 at about 10-30 a.m. Aithappa Poojary of Kadri, Koragappa Poojary of Bendoor and Vasu Samagara of Bendoor came to the tea shop of Chandu Poojary situated close to my shop in the same building. These three had coffee and sitting in the varrandah began exchanging hot words. Koragappa Poojary grappled with Aithappa and went to the other side of the road. Vasu Samagara had a knife that cannot be folded. Allu Menezes then led Vasu Samagara, saying that you should not create trouble, away to a distance of about ½ a furlong Koraga and Aithappa struggling one against the other. Vasu Samagara freed himself from Allu's hold, and with the knife he had, he stabbed Aithappa, who consequently fell. I and others went to the place but Aithappa had died. Koragappa and Vasu ran away towards Pedamalai side. I directed Chandu Poojary's brother to remain near the dead body and Chandu Poojary was sent to inform Aithappa's family. I went to the Village Magistrate but learnt that he had gone to Mangalore and came to the station to report. The stabbing took place at about 11-30 a.m.

I received the F.I.R. at 4-15 p.m. on 4-10-52 and reached the scene with the S.I. at 5 p.m. and held the inquest. The inquest report is herewith. At the inquest the following P.Ws. were examined and their statement runs as follows.

P.W.I. Babu Belchada stated as follows :- I am tailor having a shop in Neermarga. s/o Appayya Belchada.

Today at about 10-30 a.m. deceased Aithappa and accused Vasu Samagara and Koragappa Poojary came to the tea shop of P.W.2 Chandu Poojary, which is close to my tailoring shop and they had coffee. They sat in the varrandah and began talking in a loud tone exchanging hot words, and then Koragappa and Aithappa grappled each other and reached the other side of the road. Vasu Samagara took out his knife. At that time Allu Menezes led Vasu Samagara away to a distance of ½ a furlong and said that he should not create any troubles. At that time Koragappa and Aithappa were pushing and grapling with each other. Then Vasu Samagara freed himself from the hold of Allu Menezes and ran to the spot and stabbed Aithappa who fell down and died. I shouted 'Don't do that.' Koragappa and Vasu ran towards Pedumale side. I went to the place, where Aithappa was lying with Chandu and found him dead. Many people assembled there. Among the crowd were Francis and Gregory. I directed Chandappa to inform the wife of the deceased and his brother Narayana to guard the dead body. I went to the Potail and could not find him there and I went to the Police Station

and informed the matter.

P.W.2 - Chandappa Poojary, s/o Aithappa Poojary stated as follows -

I run a tea shop close to the shop of P.W.1. My brother P.W.3 Narayana is helping me to run the hotel. At 10-30 a.m. today Aithappa of Kadri and Vasu Samagara of Bendoor and Koragappa came to my tea shop, had tea and eatables for which Aithappa paid. They came out and Vasu Samagara said to Aithappa "you gave information and got me arrested with arrack and how can I trust you. Anyway I am going to jail but I will kill you and then go to jail." Then I told them not to quarrel from and create troubles in the shop but asked them to go away. They left the shop and Koragappa told Vasu Samagara that they would help to contest the case. At that time Aithappa told him that he would not help them in the case. Then Vasu Samagara took out a knife and said that ' I will kill you and then go to jail'. Allu Menezes who was on the road led Vasu away to some distance. Then deceased Aithappa exclaimed "Is it for this purpose that I was asked to come here", and removed his shoes, shirt and baniyan and grappled with Koragappa saying "then kill me". Then Vasu Samagara freeing himself from Allu Menezes ran to the spot and he stabbed the deceased on the head and on the left side and as result of which Aithappa fell down. Koragappa and Vasu ran to Pedumale side. When I went to the spot Aithappa was found dead. Gregory and Franscis were nearby and have witnessed the stabing. Many people assembled there. P.W.1 went to the Potail. I went to inform the deceased's wife and my brother Narayana was asked to guard the dead body. I met Ahamad Beary and with him went to the deceased's wife and told her about the occurrence.

P.W.3 Narayana Poojary ~~berht~~ brother P.W."2" states as follows:-

"I work in P.W. 2's tea shop. At about 10-30 a.m. Aithappa, Vasu and Koragappa came to the tea shop. Aithappa and Vasu Samagara began exchanging hot words regarding a case. Then P.W.2 his brother warned them not to create troubles in the hotel. They went out continuing to talk loudly. He heard Vasu Samagara saying to Aithappa that he would kill him before going to jail and took out his knife. Then Allu Menezes led Vasu Samagara to a distance. Then Aithappa said "Is it for this purpose I was brought here, If so kill me." and then removed his shoes, shirt and baniyan and grappled with Koragappa. That time Vasu Samagara ran back after freeing himself from Allu Menezes and stabbed the

deceased on his head and side. The deceased fell down. Vasu and Koragappa ran towards Pedumale side with knife. Gregoy and Franscis also were seen standing there. guarded the dead body."

P.W.4 Allu Menezes @ Alphanso Menezes, s/o Rosario Menezes states as follows:-
"I came to take tea this morning. At that time Vasu Samagara, Koragappa and the deceased were in the tea shop. I know them before. I heard them quarrelling over an arrack case. Chandappa at that time warned them and asked them to go away. They went out continuing the quarrel. I came out after my tea. The Koragappa said we (Koragappa and Aithappa) would join together to contest your case. Aithappa said that he would not join them. Vasu then said that he would kill Aithappa and then go to jail and then took out his dagger like knife. Fearing further troubles I led Vasu away to 100 yards. Then Vasu said he will not create trouble, and that this is only to threaten andfreed himself and ran back. I went home. Later on I knew that Vasu stabbed Aithappa and killed him.

P.W.5 Gregory Menezes, s/o Jockhim Menezes states as follows:-

"I live close to the shop of P.W.I. While I was going to my field this morning at about 10-30 a.m., I saw the deceased Aithappa, Vasu and Koragappa quarrelling and exchanging hot words in front of the tea shop. I know them before. I heard Aithappa say to Vasu "I will not help you in your case." Then Vasu said that he would kill Aithappa and then go to jail and took out his knife. Then Allu Menezes led Vasu away fearing troubles. Then Aithappa threw off his shirt, baniyan and shoes saying "Is it to kill me, that you have asked me to meet here" and grappled with Koragappa. At that time Vasu got himself freed from Allu Menezes and ran to the spot and stabbed Aithappa on his head and side. Aithappa then fell down. Vasu and Koragappa ran to Pedumale side. When I went near Aithappa he had died.

P.W.6 Francis Menezes, s/o Salvadore Menezes states as follows:-

"I live near the house of P.W.4. I came to the shop of P.W.2 to take tea. I saw the deceased Aithappa, Koragappa and Vasu. Allu Menezes also there. They were exchanging hot words. Chandappa warned them to go away from the tea shop. They went to the road-side continuing the quarrel. Myself and P.W.4 came out after tea. I saw Vasu taking out his knife. Allu Menezes took him away saying do not create troubles. I stood near P.W.5.

The Aithappa asked "Am I asked to come here to be killed?" and removed his shift, baniyan and shoes and grappled with Koragappa. . Vasu freed himself from Allu Menezes ran to the spot and stabbed Aithappa on his head and side. Aithappa fell down dead. The accused went away.

P.W.7 Chandravathi, wife of deceased Aithappa. stated as follows -

"Deceased is my husband. He was running a beeda-beedi shop at Mallikatte. It had to be closed on account of loss. The deceased was saying that he would go to Bombay. The accused Vasu and Koragappa used to frequent my house. They used to tell my husband that arrack can be had here and there and used to take him out. Yesterday Vasu came to my house about noon and told my husband that Koragappa Poojary wanted to meet him at Neermarga. He showed a knife and said that it is meant for Prohibition authorities if they catch him again and went away. This morning the deceased left the house saying that he would go to Neermarga. This day at about noon a Hindu and a Muslim came to my house and informed me that my husband was lying dead at Neermarga having been stabbed by Vasu. I came to Neermarga and saw my husband dead with injuries. The deceased is my husband.

P.W.8 Mohan, s/o the deceased stated as follow:-

"Deceased is my father. I am learning fitters' job in Aikal garrage. I go in the morning and come home in the evening. Father's business had to be closed on account of loss. My father used to give me something for my expense now and then. At noon I got information through P.W.2 that my father was stabbed and lying dead. I saw my father lying dead with injuries.

A rough plan of the scene is attached herewith.

The scene of offence is the vacant darakast land in front of the tea shop of P.W. 2 and tailoring shop of P.W.I. Both of them witnessed the occurrence from the place marked D and E and P.W.3 was with P.W.2 in the tea shop. P.W.5 and6 witnessed the occurrence from a distance of 10 yards marked F and G in the plan. The nearest house is that of Machu Souza Bai and Theres who said that they had not witnessed the occurrence but knew about it later on. P.W. 5 lives about 150 yards to the south east of the scene and he was going to the fields when he witnessed the occurrence. P.W. 4 and 6 had tea in P.W.2's shop and were going out when the incident took place. The other houses marked in the plan are far away and none of the inmates saw the occurrence. Blood stains

4P

were found in 5 spots in patches on the ground near the places where the ~~accused~~ deceased was lying dead. In 2 places, there was clotted blood. The cloth worn by the deceased was blood stained. The distance between the shop of P.Ws. I and 2 to the spot where the deceased lay is 22½ and 23 yards. The rubber slipper worn by the deceased and the shirt and the baniyan were found lying to the east of the road about 5 yards to the East of the scene. The scene is about 6 yards to the West of the road. The blood stained earth has been recovered to be sent to the Chemical Examiner. The S.M. is being requested to send the blood stained articles for Chemical examination. The shirt and the slippers recovered from the spot were shown to the P.Ws. and they identified these things as belonging to deceased, and worn by the deceased when they saw him alive.

The body was sent for P.M. in charge of P.C. 145 at 8 p.m. Enquiries were made to find out the sources from where the accused and deceased used to buy arrack but none is volunteering to give any information.

P.Cs. 435 and 568 were already deputed to arrest the accused before we started, as the accused was known to them personally in Bendoor and other parts.

A1 is a K.D. of B[illegible] station. He has his father working in the Maidan road and sleeping on the varandah of the shop. He has an aunt at Kudroli. He is not on visiting terms with her. He has no house of his own. He works at Bendoor in a varandah. He is always found associating with the deceased andKoragappa. He has married in Belthangady.

A2 also belongs to Bendoor and is reported to be living with his mother and other members of the family. He has no work and is reported to be earning his livelihood by sale of liquor.

Closed the investigation at 11.30 p.m. and halted in Neermarga.

(Sd/-) xxx
Inspr. of Police,
Mangalore.

Statement of witnesses recorded during the inquest in Crime No. 80/52 - Sec.302 I.P.C. on 4-10-52.

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P.W.1. - Chandravathi, w/o the deceased, Aithappa:-

My husband was running a small beeda-beedi shop at Mallikatte. Since two months it was closed. The deceased used to say that he would go to Bombay. I knew Vasu Samagara and Koragappa Poojary. They were frequently coming to my house. They would come to the house and tell my husband that liquor is available here and there and they used to fetch my husband out. Yesterday noon Vasu Samagara came to our house and told my husband to meet Koragappa Poojary at Neerumarga. Both of them were put up at Bendoor. And Vasu Samagara showed a knife and said if Prohibition staff arrest us, this knife is intended for them and he went away. Today morning my husband told me that he was going to Neerumarga and went away. In the noon a Hindu and a Muslim came to me and told me that Vasu Samagara had murdered my husband by stabbing. Accordingly I came to Neerumarga. There I found my husband dead with injuries on his body. Here, the dead person Aithappa, is my husband.

P.W.2 - Mohan, s/o the deceased:- Here who is lying dead is my father. I am undergoing painting training at Alkal Garage. I start in the morning and return in the evening. Due to loss, my father's business was stopped. Today when I came to my house in the noon, one Chandappa and a Muslim came to me and told me that Vasu Samagara had stabbed my father to death at Neermarga. I came and saw him. I found my father dead with injuries on his person.

P.W. 3 - Babu Belchada, s/o Appayya Belchada, Tailor, Neermarga:-

My profession is tailoring at Neermarga. My shop is situated near Chandappa Poojary's hotel. Today morning at about 10.30 a.m., the deceased Aithappa accompanied by Vasu Samagara and Koragappa Poojary took tea in the Hotel of Chandappa Poojary. And after that they sat on the Varandah of the Hotel and started abusing each other. Then, Koragappa pushed Aithappa to the other side of the road. Then, Vasu Samagara took out a sword-like knife. At that time, Allu Menezes told Vasu Samagara not to quarrel here and took him half a furlong away from here. Then Koragappa and Aithappa were pushing each other. By that time, Vasu Samagara managed to escape from the hands of Allu Menezes and ran towards Aithappa and stabbed Aithappa with the knife which he (Vasu Samagara) was holding then.

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He had stabbed him more than once. Then I got frightened and cried out to them not to do like that. Then Aithappa fell on the ground. Koragappa and Vasu Samagara went to Pedamale. I, Chandappa and others went there and saw. Then Aithappa was dead. Many people gathered there. Among them were, Gregory, Francis etc. Chandappa asked his brother to stand near the corpse and went to the house of the deceased to intimate about his death. I went to the house of the Potail (Village Magistrate). Potail was not there. From there I went to the Police Station. At Police Station I have reported the matter and have given a statement to this effect. I have also affixed my signature to the statement.

P.W.4 - Chandappa Poojary, s/o Aithappa Poojary,Neermarga.:-

I am running a coffee hotel near P.W.3's shop. My younger brother Narayana is assisting me in the hotel. On 4-10-52 at about 10.30 a.m., Aithappa, Koragappa and Vasu Samagara, came to my hotel and took tea. Aithappa paid the money. Then, Vasu Samagara told Aithappa that he was instrumental to the seizure of liquor from him and as such he could not be believed. He also said, any how, he is going to jail and that he would go to jail only after murdering Aithappa. At that time I told them that they should not quarrel in the hotel and should leave the place at once. While they were going out, Koragappa told Vasu Samagara that both of them would conduct his case. Then Aithappa said that he would not help them to conduct their case. Then Vasu told Aithappa that he would go to jail after murdering him and took his knife. Then Allu Menezes was on the road. He told Vasu that it was bad for them to quarrel and took Vasu Samagara with him. Then Aithappa asked them whether they have asked him to come here, just to murder him, and after telling this, he threw away his shoes and also removed his shirt and banian and threw them away and asked them to kill him. Then Koragappa and Aithappa started quarrelling. Then Vasu Samagara escaped from the hands of Allu Menezes and ran towards deceased Aithappa and stabbed on his head and right side of the chest. Aithappa fell on the ground there itself. Koragappa and Vasu ran towards Pedamale. When I went to see Aithappa I found him dead. Gregoy and Francis were there when the deceased was stabbed. After that some people gathered there. I sent P.W. 3 to the house of the Potail and posted my brother Narayana to guard the corpse and I went to the house of Aithappa to

intimate the matter. On the way I met Ahmad Beary and we both went to Aithappa's wife and told her about this.

P.W.5 - Narayana B/o Chandu Poojary:-

I am working in the hotel of P.W.4 Chandu (Chandappa) Poojary. On 4-10-52 at about 10.30 a.m.. Aithappa, Koragappa and Vasu Samagara came to our hotel and took tea and went away after paying money. While they were coming out Vasu Samagara and Aithappa started quarrelling. They were talking about the case. P.W.4 asked them not to quarrel there but to leave the hotel. Then they went out talking about. There, Vasu Samagara took out a knife and said that he would go to jail only after murdering Aithappa. Then Allu Menezes took Vasu Samagara with him. Then Aithappa asked Koragappa whether they have fetched him here just to kill him and so saying removed his shoes, shirt and banian and threw them away. Koragappa and Aithappa started rolling on each other. Immediately, Vasu Samagara came there running and stabbed Aithappa on his head and right side of the chest. Aithappa fell on the ground. Koragappa and Vasu with his knife in his hand ran towards Pedamale. After that, I saw Gregoy and Francis standing nearby. After posting me near the corpse, P3 went to the house of the potail and P.W.4 went to the house of the deceased. Till the arrival of Police, I was guarding the corpse.

P.W.6:- Allu Menezes (Alphons Menezes), s/o Rozario Menezes, Kiliye, Neermarga village:-

On 4-10-52 in the morning I had gone to the hotel to take coffee. Then Vasu, Koragappa and Aithappa, were in the hotel of P.W.4. I knew them. When I was taking coffee they were quarrelling about a liquor case. Then Chandappa told them they should not quarrel and asked them to leave the hotel. They went out quarrelling with each other. I went out after taking coffee. Then Koragappa told Vasu Samagara that they both would conduct his case in the court. But Aithappa said that he was not a party to the case. Taking out a knife, Vasu told Aithappa that he would go to jail only after killing him. Assuming that they would resort to fighting, I took Vasu towards my house. After having passed about 100 yards, Vasu Samagara told me that they would not fight and it was all said only to frighten them and having said this he managed to get out of my fold and ran away. I went straight home. After that, I came to know that Vasu Samagara stabbed Aithappa to death.

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P.W.7:- Gregory Menezes, s/o Johni Menezes, Neermarga:-

I am living in my house situated near the shop of P.W.3. Today morning at about 10.30 a.m., when I was going to my field, and when I reached P.W.4's hotel, Aithappa, Koragappa and Vasu Samagara, all these three people were abusing each other in front of P.W.4's hotel. I knew them. Then Aithappa said that he was not a party to their case. Immediately Vasu Samagara told Aithappa that he would go to jail after killing Aithappa and so saying he took out a knife. Then P.W.6 took Vasu Samagara with him telling that they should not quarrel. Then Aithappa said whether they have asked him to come there just to kill him and having uttered these words he removed his boots, shirt and banian and threw them away and picked up quarrel with Koragappa and both of them started rolling. By that time Vasu Samagara escaped from the holds of Allu Menezes and ran towards Aithappa and stabbed Aithappa on his head and side of chest with his knife. Aithappa fell on the ground. Koragappa and Vasu ran towards Pedamale with the knife. When I went to see Aithappa I found him dead.

P.W.8:- Francies Menezes, s/o Salvedore Menezes:-

My house is situated near the house of Allu Menezes. Today morning I had gone to the hotel of Chandappa to take tea. Aithappa, Koragappa and Vasu Samagara were present in the hotel. Allu Menezes was also present there. They were abusing each other. When the noice became a big nuisance, Chandappa asked them ge to go out. Then these three persons went out scolding one another. I and Allu Menezes came out after taking coffee. Then, I saw Vasu Samagara taking out a knife. Allu took him with him telling that they should not quarrel. I stood near Gregory. Then Aithappa asked them whether they have asked him to come there just to kill him and after uttering these words asked them to kill him and he removed his boots, shirt and banian and threw them away and started quarrelling with Koragappa. Vasu Samagara escaped from the hold of Allu Menezes and ran towards Aithappa and stabbed him on his head and side of the chest with his knife. Aithappa fell on the ground. Koragappa and Vasu ran away towards Pedaruva. When I went near Aithappa, I found him dead.

Report of investigation on the dead body of Aithappa Poojari, s/o Nagappa Poojari of Kadri held at Neerumarga on 4-10-52.

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I. (1) Bonaventure Lobo, s/o Francis Lobo, Christian, Merchant, Neerumarga.
(2) Julian Rego, s/o Antony Rego, Christian, Band Master, Padavu.
(3) Santha Alva, s/o Ishwara Alva, Hindu, Bunt, Hotel Keeper, Neerumarga.
(4) Jhon Pinto, s/o Joseph Pinto, Christian, Cultivator, Neerumarga.

II. Aithappa Poojari, male, 38 years, Billava, nil, s/o Nagappa Poojari, Kadri.

III. The deceased was first found dead by Babu Belchada and tea shop keeper Chandappa Poojari and others on 4-10-52 at about 11.30 a.m., about 15 feet to the west of the road in front of the shops of Babu Belchada and Chandappa Poojari.

IV. Babu Belchada, Chandappa Poojari and Narayana Poojari were present in front of their shops when the deceased was stabbed to death by Vasu Samagara of Bendoor.

V. Height - 5'7½", dark complexion, cropped hair, well-built body.

Identification marks:- (i) A black mole on the back 4" above the right hip.

VI. Married, male.

VII. The body was seen stretched out north to the South, head southwards, Rigor mortis present, skin peeling of, left eye closed, right eye half-opened, left hand resting on the right hand near the palm, the body resting on its right side. The following injuries were noticed:-

(1) A knife wound 2½" long on the back portion of the head about 4" above the right ear.

(2) A small wound about 1" to the left, near the left eye.

(3) An abrasion like nail marks 1" below the shoulder blade on the outer aspect of the left upper arm.

(4) A penetrating wound 3" long on the outer aspect of the left side 3" to the back.

Properties:- (1) a white yarn waist chord round the waist.

(2) A four yards white double dothi with black borders, blood stained.

VIII. The body was found lying about 15 feet to the west of the Bendoor-Kavoor road in front of the tea shop of Chandappa Poojari and the tailoring shop of Babu Belchada. There is dark dried blood stains on the ground at five spots near the dead body. In two places the blood is found clotted near the body. The dothi worn by the deceased is highly blood-stained. On the eastern side of the road 6 feet from the road to the east in front of the tea shop of Chandappa Poojari are found a pair of Bata Rubber slippers and a cream-colour poplin jubba and a sleeveless white banian with 18 Ramananda beedies in a packet inside the jubba pocket; Not in water.

(a) Nil. (b) Nil. (c) Nil.

IX. The deceased would appear to have died due to knife injuries found on his person inflicted by Vasu Samagara.

X. By violence with a 'Kanjar' (dagger-knife).

XI. (a) Eye witnesses Babu Belchada, Chandappa Poojari and his brother Narayana Poojari, Gregory Menezes and Francis Menezes saw Vasu Samagara of Bendoor stabbing the deceased Aithappa Poojari with a 'kanjar' (dagger-knife) and they also saw Koragappa Poojari and the deceased pulling and pushing each other. Vasu Samagara caused the death of the deceased with a knife.

(b) Nil.

XII. The corpse is sent for medical examination to ascertain the details of the cause of death.

XIII. The corpse is sent for medical examination to ascertain the details of the cause of death under the orders of the Inspector of Police in charge of P.C. 145 Ramakrishna at 20.00 hrs. on 4-10-52.

XIV. The body is sent for Post Mortem examination.

XV. The Panchayatdars are of opinion that the deceased Aithappa Poojari was stabbed to death with a 'Kanjar' (dagger-knife) by Vasu Samagara of Bendoor while the deceased and the Koragappa Poojari were pulling and pushing each other in the course of a quarrel.

XVI. (Sd/-) Bona Ventura Lobo.

" xx

" xx

" John Pinto.

XVII. " xxx 4.10.52.

xxx 4.10.52.

XVIII. (a) Name and residence of the deceased known

(b) Nil.

XIX. to XXV apply to Railway Police.

XXVI. Investigation commenced at 5 p.m. on 4-10-52.

Investigated closed at 8 p.m. on 4-10-52.

(Sd/-) xxx 4-10-52.
Inspr. B.

(Sd/-) xxx 4.10.52.
S.I.; B3.

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Case Diary.

Police Station. B3. F.I.R.No. 8052. South Kanara District.

Date and place of occurrence - 4-10-52. Neermarga.

Section 302 I.P.C.

5-10-52.

I. 4-10-52.

II. Babu Belchada,
s/o Appayya Belchada.

III. Accused.

(1) Vasu Samagara,
s/o Gopala Samagara,
Bendoor.
(2) Koragappa Poojari,
s/o Jarappa Poojari,
Bendoor.

IV and V Nil.

VI. C.D. d/-4.10.52.

Deceased.

Aithappa Poojari, s/o
Nagappa Poojari,
Kadri.

VII. Wit.Questioned.

Iqbel Khan, S.I. of
Prohibition, Padavu.

Today enquiries were made at Neermarga but the accused could not be located. A.S.I. visited the scene and investigated and gave instructions.

Thence I came to Padavu, met the Prohibition Sub-Inspector Iqbal Khan and questioned him regarding the prohibition case against Vasu Samagara, accused in this case. He stated that on 26-9-52 at about 3 p.m. that the accused whom he knew already before and who was suspected to be dealing in arrack was likely to be travelling in one of the buses with arrack transported from Kulshekar side. He waited and stopped No. 4 route bus of Mangalore Automobiles Ltd., and found the accused Vasudeva Samagara in the front seat concealing under his dhoti an air pillow which contained about 15 bottles of arrack. The accused Vasudeva was arrested and the arrack seized and the case is pending before A.F.C.M. in Padavu station Crime No.114/52 u/s 4 (1) (a) M.P.Act. He further added that the deceased was not his informant at all.

Vasudeva Samagara (A1) has a history sheet in Mangalore North Station and has the following convictions to his credit.

(1) Released u/s 562 Cr.P.C. by 1st class Bench Court, Mangalore in C.C. 1637/37 dated 9-10-37 in Mangalore Town Crime No. 190/37 u/s 379 I.P.C.

(2) Fined Rs.10/- by S.S.M. (Mangalore) in C.C. 66/38 d/-26-2-38 in Mangalore Town Crime No. 29/38 u/s 379 and 75 I.P.C.

(3)(4) & (5). Detained in Borstal School for 3 years by S.D.M. (Mangalore) in C.C. Nos. 67, 68 and 69/38 dated 22-11-38 in Mangalore Town Crime Nos. 216, 210 and 221/38 u/s 379 and 75 I.P.C. respectively.

(6) One months R.I. in C.C. 1048/50 d/-30-9-50 in Mangalore North Crime No. 237/50 u/s 380 and 75 I.P.C. by S.S.M. Mangalore.

(7) One month's R.I. in C.C. 1063/50 d/-30-9-50 in Mangalore South Station Crime No. 151/50 u/s 380 and 75 I.P.C. by S.S.M. Mangalore.

(8) Two months R.I. in C.C. 1064/50 dated 30-9-50 in Mangalore North Station Crime No. 246/50 u/s 380 and 75 I.P.C. by S.S.M. (Mangalore.)

(9) One month's R.I. in C.C. 1065/50 dated 30-9-50 in Mangalore North Station Crime No. 241/50 u/s 380 and 75 I.P.C. by S.S.M. (Mangalore.)

(10) Two months R.I. in B.C.C. 1645/51 dated 12-9-51 in Mangalore North Station Crime No. 267/51 u/s 64 M.C.P. Act by Bench Court, Mangalore. I went to the Music hall where the accused Vasudeva used to sleep and enquiries showed that he has not visited the locality at all after the occurence. I also visited A2's house and learned that he has also not visited the locality after the occurence and his whereabouts unknown. I went round to Kadri, Bendoor and Kudroli and made enquiries about the accused but could not get at them.

The following is the copy of the post mortem certificate.

Post-Mortem Certificate.

regarding the body of a male aged about 38 years, named Aithappa Poojari s/o Nagappa Poojari.

Requisition received at 11 p.m. on 4-10-52 from the Inspr. of Police, Mangalore with his letter number nil dated 4-10-52. Body incharge of P.C. No. 145 named Ramakrishna.

Identification and caste marks:-

(1) A dark mole on the right side of the chest 5" below right axilla.

(2) A dark mole 12" below the top of right shoulder on the back.

(3) A horizontal scar 2½" just below. Zipho-starnum.

The body was first seen by the undersigned at 9 a.m. on 5th October 1952. Its condition then was cold, Rigor mortis passed off in upper limbs but slightly present in the lower limbs. Post mortem commenced at 10 a.m. on 5th October 1952. Appearance found at the post-mortem:- Body of a well nourished adult male, scalp hair cropped, grey and black mixed 3-5" - Rigor mortis passed off in the upper limbs, but slightly present in the lower limbs- Body symmetrical, features ~~el~~ calm, eye lids partially open, jaws clenched, teeth complete, tongue not protruding - no discharge from mouth, nose or ears.

The following external injuries were found on the person.

(1) A horizontal, gaping, incised, penetrating wound situated on the left side of back of chest in the ninth intercostal space posteriorly situated a little mediel to the posterior axillary line, 3½" x 1¼" exposting all the cut soft tissues underlying and the long tissue through the cut portion of the intercostal muscle - clotted blood at the mouth of the wound with blood smear on the back and on the left side.

(2) . A nearly horizontal, curved, irregularly incised, gaping wound, situated on the left temple region ¾" x ¼" x ¼" Blood smear streaks on the left side of the face and ear.

(3) An obliquely horizontal incised, gaping wound, ½" to the right side of the median line on the upper part of the occipital region of the scalp 3½" and ¼" bone deep.

Thorax well formed - No fracture of ribs - Larynx, glottis, trachea and bronchi empty- Hyoid bone not broken - Pencarduim contained 8½ oz. of dark fluid blood, with a tear in the posterior surface corresponding to the penetrating wound No. (1) ½" x 1/6" - Heart weighed 9 oz. - All chambers empty. There is a nearly horizontal wound, gaping, in the wall of the right ventricle communicating with the chamber of the right ventricles 3/4" x 1/6" - The wall of the left ventricle has also an incised gaping wound communicating with the left ventricle.

Lungs. - Right lung weighed 12 oz, pale, soft, pleural adhesions to the diaphragm and at the base - fluid dark blood present in the pleural cavity- Left lung found collapsed weighed 11 oz. - 1½" above the inferior border, there is an incised wound, nearly thoroughone the length, horizontally, 5" x ¼" x ¼" on the internal surface puncturing the external surface at both the ends bear leaving a narrow tag of lung tissue at the posterior and anterior border of external surface wound ¼" x ¼" respectively, corresponding to the penetrating wound No. (1) described previously - fluid blood in the pleural cavity.

Abdomen - Symmetrical slight distonsian - fat 1¼" thick, Lever enlarged, pale, weighed 54 oz. - gall bladder full - spleen, soft, pale, weighed 3 oz - Right kidney 4 oz. - Left kidney 4 oz. - Stomach with contents weighed 6 oz. and contained thick fluid like substance resembling that of conjee - Large intestines contained gas and faecal matter - Appendix 4" long - Urinary bladder contained 8 oz. of urine - Penis signs of having been circumcised

qp

some time ago, with a chronic ulcer on the glans penis.

Scalp - soft tissues cut to the depth of the skull bone corresponding to injury No. (3) - No fracture of skull bones - Brain pale, weighed 48 oz.

Opinion as to cause of death.

The deceased would appear to have died of shock and haemorrhage due to multiple injuries to the vital organs (left lung and heart.)

Station:-Mangalore.
Dated:5th October 1952.

(Sd/-) E.S. Jacob.
Civil Asst. Surgeon.

The medical officer will be questioned.

(Sd/-) xxx. 5-10-52.
S.I. B3 (Mangalore East.)

Case Diary.

Police Station:- B3. F.I.R. No. 80/52. S.K. District.

Date and place of occurence:- 4-10-52. Neerumarga.

Sec. 302 I.P.C.

6-10-52.

I. 4-10-52.

II. Babu Belchada

III. Accused

(1) Vasu Samagara S/o Gopala Samagara, Bendoor.

(2) Koragappa, s/o Jarappa Poojari, Bendoor.

IV and V. Nil.

VI. C.D.d/- 5.10.52.

P.Cs. 435 and 563 who were specially deputed to arrest the accused in this case on 4-10-52, today (6-10-52) arrested the accused Vasudeva Samagara at 3 p.m. at Arkula and brought to station at 6.30 p.m. He was searched and locked up. I questioned him in the lock-up at 21.50 hrs. and he complains no ill-treatment at the hands of the Police. I questioned him regarding the incident and he stated as follows:-

I am a chuckler by profession. I am aged about 30. I was concerned in petty thefts even from my childhood and I was sent to the Borstal School. My father did not like me. So I stopped going to my father. I had involved in theft cases and had undergone imprisonment. Now I do chuckler's work at Bendoor and sleep in the music hall in the upstair of the shop at Bendoor. Since about 2 years I know deceased Aithappa and accused Koragappa. We three are good friends. We used to get arrack from Neermarga and Padavu villages and sell. I used to transport the arrack. Deceased Aithappa and accused Koragappa used to give me a share of the profit. As I was taking a risk in transporting the arrack to the town side. I told Aithappa and Koragappa that something more must be given to me than the usual share. Aithappa and Koragappa refused to give anything more and when I pressed again to give me something more the deceased Aithappa told me that he will see that I am caught by the prohibition staff when I transport liquor for the next time. After three or four days of the talk on 26-9-52 I was transporting 10 bottles of arrack in route No.4 City bus from Kulshekhar side when the bus was checked by the Prohibition Sub-Inspector of Padavu and party at Padavu and the arrack was seized and I was arrested. Afterwards I was released on bail. The case is now pending in the Court. I thought that Aithappa might have given information to the prohibition staff. I wanted to ask Aithappa about this. On 3-9-52 at about noon I went to the deceased's house and told the deceased Aithappa that Koragappa has asked us to meet at Neermarga on 4-10-52 morning and I came to Bendoor. On 4-10-52 at about 8.30 a.m. I met Koragappa at Bendoor and we started together for Neerumarga. At about 10 a.m. we met Aithappa about 2 furlongs away from Bonavanture Lobo's shop in a vacant place at Neermarga. At about 10.30 a.m. we came to the teashop of

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Chandappa and took tea and 'Goli baje' for 6 annas andAithappa paid the money. After tea, in the verandah of Chandappa's shop I told Aithappa that "you gave information and got me arrested with arrack and how can I trust you" Anyway I am going to jail but I will kill you and then go to jail. Then Chandappa told us not to quarrel and create troubles in the shop and asked us to go away. We left the shop and Koragappa told me that they will help to contest the case. At that time deceased Aithappa said that he would not help me in the case. I then took out a knife and told Aithappa that "I will kill you and then go to jail". Then Allu Menezes who was on the road led me away to some distance. Then deceased Aithappa exclaimed "is it for this purpose I was asked to come here" and removed his shirt and banian and shoes and grappled with Koragappa saying "Kill me." I escaped from Allu Menezes and came and stabbed deceased Aithappa three or four times with the knife I had. When I was stabbing Aithappa, he and Koragappa were grapling. After he received the stab wounds Aithappa fell down and Koragappa and myself ran towards Padumale side. ~~Id~~ I do not know where Koragappa went. I wandered in the forest of Kudupu and Pachanady and slept in the forest on 4-10-52 and 5-10-52. Today i.e., 6-10-52 I started to Belthangady to go to the Mysore ghats from there. On the way at Padil I saw a lorry going towards Bantwal side and stopped the lorry. The driver stopped the lorry. I told the driver that I want to go to Belthangady urgently and that I have got no money and that I will pay the money at Mangalore tomorrow. The driver asked me to sit in the body of the lorry. I sat in the body on salt bags. Then the conductor called the driver 'Mana' and said let us go. As the lorry started I thought that I will go to Mysore ghats after some time. So, when the lorry reached Arkula I called the driver to stop the lorry. The driver stopped the lorry at Arkula. Then I told him that I want to get down at Arkula as I want to get some money from a person. I got down at Arkula. I have dropped the knife with which I stabbed Aithappa in the lorry among the salt bags. There is no person at Arkula to give me money. The shirt and mundoo worn by me now were the same worn by me when I stabbed deceased Aithappa.

I examined the cloths of the accused and there is no blood mark on it. There is no injury on his body also.

Enquiry about the driver of the lorry 'Mana' discloses that he is a driver employed by a lorry owner of Chickmagalore and that he has gone to Chickmagalore with the lorry. He will be traced and questioned.

I also made enquiries about A2 at Padavu and Mangalore but could not get any information regarding his present whereabouts. Further attempts are continued.

(Sd/-) xxx 6.10.52.
S.I. B3 (Mangalore East.)

Case Diary.

Police Station:-B3. F.I.R.No. 80/52. South Kanara District.

Date and place of occurrence:- 4-10-52. Neermarga.

Offence:-Sec. 302 I.P.C.

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9-10-52.

(1) 4-10-52.

II. Babu Belchada, Neermarga.

III. Accused

(1) Vasu Samagara, s/o Gopal Samagara, Bendoor.

(2) Koragappa, s/o Jarappa Poojari, Bendoor.

IV and V:-Nil.

VI.C.D. d/-6-10-52.

Enquiries were made about A2 to trace him out. P.Cs.435 and 563 were specially deputed to trace out A2. They gave their special report as follows:- On 7-10-52 they visited Arkula and enquired about A2 with Dharmaraj Shetty, Iddinabba Beari, Koragappa Mee Moily and others and did not get any useful information regarding his present whereabouts. Being late halted at Arkula. On 8-10-52 they visited Bajal Neermarga and Kavoor, villages and enquired about A2 with Ahamed Beari, Sheena Pandita, Poovappa and others and learned that he is reported to be in Thiruvail side. So they immediately went to Thiruvail and made confidential enquiries with Ramappa Belchada, Sheela Souza and others and learned that the accused was known to have spent the previous night in the hill near the house of Dasa Poojari and also came to know that this Dasa Poojari and A2 are friends. Therefore they kept watch near the house of Dasa Poojari but A2 could not be traced. Today they visited Tannirbavi and Pachanady villages and enquired about A2 with Sadananda, Gangayya, Purushothama Pai and others and learned that the accused is in Maroli side. So they proceeded to Maroli and enquired with Hassankutty Beari, Krishnappa, Manjappa Shetty and others but could not trace the whereabouts of A2. They also enquired about the knife in this case but could not get any information about that.

On 7-10-52 I also enquired about A2 at Mangalore and Padavu but was not able to gather any information regarding his present whereabouts. I made enquiries about the driver Mana and learned that he has not returned to his house since he left on 6-10-52.

On 8-10-52 also I made enquiries about A2 at Ullal and Mangalore but could not get any information. I made enquiries about the driver Mana but he has not so far come back. It is also not known to which particular place he went. This day also I made enquiries about the driver and A2. The driver has not returned so far. The driver will be traced without delay and questioned. Attempts are made to trace out A2 also.

(Sd/-) xxx 9.10.52.
Sub-Inspr. of Police,B3.

Case Diary.

Police Station:- Mangalore East. F.I.R.No. 80/52. South Kanara.

Date and Place of Occurrence:- 4-10-52. Neermarga.

Sec. 302 I.P.C.

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10-10-52.

I. 4-10-52.

II. Babu Belchada.

III. Accused

1) Vasu Samagara.
2) Koragappa.

IV and V:- Nil.

VI. 9.10.52.

VII. P.Ws.

10)

VIII) Emmanval Bangara a Mana s/o Dama Bangara, Driver of Lorry MDX. 1647, Kankanady

II) James Rodrigues s/o Joseph Rodrigues, Conductor of Lorry MDX. 1647.

This day I continued enquiries about the Driver Mana with Driver Laxmanji, Shrinivas and others and came to know that he is working in Lorry No. MDX. 1647 and he had gone to Chickamagalore and my return this day and so I waited for him at Golikatta Bazaar. At about 9 a.m. I saw Lorry MDX. 1647 comming to Bandar side and I stopped the same and questioned the Driver. P.W.10 Emanual Bangara-he stated that on 6-10-52 he left Mangalore in lorry MDX. 1647. He is the Driver of this Lorry, the load of the lorry on that day was salt bags etc. to be taken to Magundi estate in Mysore. The conductor James was also in the Lorry. At about 9 a.m. he reached Padil and a person of Mangalore stopped the lorry and requested him to give a lift upto Belthangady as he wanted to go there urgently. The person also said that he has no money with him. He knows the person and he has seen him in Mangalore but does not know his name. He on hearing this request asked him to get into the body of the lorry. On reaching near Olchilu in Arkula village the person asked the witness that he wanted to get down there as he wanted to take some money from a friend. The witness stopped the lorry and the person got down from the lorry. Then he proceeded to Balahonnoor and reached Magundi Estate in the evening and while unloading the lorry he found a knife (Kanjar) in the lorry. He took it to give it to the person who got into the lorry at Padil. Thinking that the knife may belong to that person. As he could not see the person till now he kept the knife with him. This day when I came to Bunder in my lorry with the knife and as asked by the Police now he produced the same.

So saying he produced the knife before me and I seized the same under a yadast before witnesses.

P.W.11. James Rodrigues when questioned stated that he is the conductor of Lorry MDX. 1647 and went to Magundi on 6-10-52 in Lorry along with P.W.10. Further he speaks in support of the statement of P.W.10 in all points and also stated he has seen the person in Mangalore somany times who got into the lorry at Padil on 6-10-52. This was the same knife which was taken by witness 10 while unloading the goods at Magundi on 6-10-52.

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Today I also made enquiries about A2 but whereabouts are not known. Further attempts are made.

Closed the enquiry in this case for the day.

(Sd/-) xxx 10-10-52.
H.C. 379.

~~(25)~~ 99

Case Diary.

Police Station:- B3.(Mangalore East). F.I.R.No. 80/52. South Kanara Dt.

Date and place of occurrence:- 4-10-52. Neermarga.

Offence:- Sec. 302 I.P.C.

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13-10-52. Continued enquiries were made to trace out A2. On 10-10-52 I.4.10.52. H.C. 379 enquired about A2 at Thiruvail and learned that he was II.Babu Belchada. found in Thiruvail village this morning but on further enquiries III.Accused — his whereabouts could not be known. On 10-10-52 H.C. so went (1) Vasu Samagara. to Belthangady and enquired about the accused at Hidibettu but (2) Koragappa,s/o could not ~~h~~ get any useful information. On 11-10-52 also Jarappa Poojari, Bendoor. he made enquiries at Belthangady side but did not get any IV. and V:-Nil. useful information.

VI.C.D.d/-9.10.52 Yesterday P.Cs.247 and 163 who were specially deputed to VII.Witnesses questioned. trace out A2 in this case reported that they visited Bajal 10) Emmanuel Bangera and enquired about A2 with Venkappa Poojari, Abdul Kadri @ Mana,s/o Dama Bangera, driver Beari and others but did not get any useful information. of lorry MDX. 1647, Kankanady. I also visited Neermarga today and enquired about A2 but (ii) James Rodrigues, could not get any useful information. I also showed s/o Joseph Rodrigues, Conductor of lorry the knife seized from witness 10 to witnesses Babu Belchada, MDX. 1647, Mangalore. Chandappa Poojari, Narayana Poojari, Gregory Menezes and and Francis and they identified that this was the same knife with which A1 Vasu Samagara stabbed deceased Aithappa Poojari at Neermarga on 4-10-52 at about 11.30 a.m. I could not see witness Allu Menezes as he has gone somewhere, to show him the knife.

I came to Mangalore and showed the knife to the deceased's wife Chandravathi who also stated that this was the same knife which was shown by accused Vasu Samagara when he (A1) came to her house the previous day of the death of her husband and Vasu (A1) said with this knife in his hand that 'This is meant for the Prohibition Authorities if they catch him again.'

I also questioned the marginally noted two witnesses who were already ~~been~~ questioned and their statements recorded by H.C. 379 on 10-10-52. Both of them corroborated their statements and added that they have nothing more to state.

(20)

Enquiries are made about the accused 2 and informants have been set up at different places to get at him.

(Sd/-) xxx 13.10.52.
Sub-Inspr.of Police,
Mangalore East Stn.

~~27~~ 101

Case Diary.

Police Station:- B3 (Mangalore East). F.I.R.No. 80/52. South Kanara District.

Date and place of occurrence:- 4-10-52. Neermarga.

Offence:- Sec. 302 I.P.C.

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16-10-52.

I. 4-10-52.

II. Babu Belchada

III. Accused

(1) Vasu Samagara

(2) Koragappa, s/o Jarappa Poojari, Bendoor.

IV. and V.Nil.

VI. C.D.d/- 13-10-52.

Enquiries about the absconding accused (2) were made on 14-10-52 by H.C. 203 at Markada with Lakkanna Shetty and others but could not get any useful information.

I enquired about A2 yesterday at Belma and Ullal with M.S. Bhandari, Veernama and others but could get no useful clue.

Today I visited Bondanthila and enquired about A2 at Bondanthila and Mangalore with Babu Rao, Pakeera Poojari and others and did not get any information.

Today I showed the knife seized from the driver to Allu Menezes (wit.) and he stated that it was the same knife he saw with A1 at Neerumarga on 4-10-52 at about 11.30 a.m. and which A1 took out and that seeing this knife he led A1 to a distance of about 100 yards.

Now all the witnesses who had seen the knife with A1 have identified it to be the same seized from the driver.

Earnest attempts are made to trace out A2 also.

(Sd/-) xxx 16.10.52.
Sub-Inspr.of Police,
Mangalore East Station

I have perused the C.D. and discussed the facts with the investigating officers. I am of opinion that no prima facie case is made out against A2 and that A1 alone may be charged for an offence u/s 302 I.P.C.

(Sd/-) P. Ramachandra Rao.
21.10 - 52.
Asst.Public Prosecutor,I.

Case Diary.

Police Station:- B3 (Mangalore East). F.I.R. No. 80/52. South Kanara District.

Date and place of occurrence:- 4-10-52. Neermarga.

Offence:- Sec. 302 I.P.C.

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21-10-52.

I. 4-10-52.

II. Babu Belchada.

III. Accused.

Vasu Samagara.

IV. & V. Nil.

VI. C.D. d/- 16-10-52.

VII. Witnesses questioned:-

Sri E.S. Jacob, C.A.S., Govt. Wenlock Hospital, Mangalore.

This day with the permission of the Court I obtained the knife seized in this case and showed it and questioned the Medical Officer who held the post mortem.

He corroborated the post mortem certificate (copy has already been submitted) and further stated that the injuries on the body of the deceased noticed by him could be caused with this knife.

Today I also consulted the A.P.P.I and he opined that no prima facie case is made out against A2 and that A1 may be charged u/s 302 I.P.C. Hence I have charged this day A1 Vasu Samagara u/s 302 I.P.C. Copy of the charge sheet and memorandum of evidence are herewith submitted.

(Sd/-) xxx 21-10-52.
Sub-Inspr.of Police,
Mangalore North.

(34) 105

Case Diary.

Police Station:- Mangalore East. F.I.R. No. 80/52. South Kanara District.

Date and place of occurrence:- 4-10-52. Neermarga.

Offence:- Sec. 302 I.P.C.

Accused:-

Vasu Samagara, s/o Gopala Samagara, Bendoor, Mangalore.

Charge u/s 302 I.P.C.

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The charge against the accused is that he on 4-10-52 at Neermarga between 10-30 a.m. and 11-30 a.m. did commit murder by intentionally causing the death of Aithappa Poojari, s/o Nagappa Pobjari of Kadri by stabbing with a dagger knife and thereby committed an offence under Sec. 302 I.P.C. triable by the Court of Sessions, South Kanara at Mangalore.

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Memorandum of Evidence.

Wit.1

Babu Belchada, s/o Appayya Belchada, Bondanthila.

To prove the occurence and his complaint at the Police station.

Wit.2.

Chandappa Poojari, s/o Aithappa Poojari, Neermarga.

Wit.3.

Narayana Poojari, s/o Aithappa Poojari, Neermarga.

Wit.4

Gregory Menezes, s/o Jochim Menezes, Neermarga.

Wit.5

Francis Menezes, s/o Salvadore Menezes, Neermarga.

To prove the occurence so far they are concerned.

Wit.6

Allu @ Alphanso Menezes, s/o Rozario Menezes, Neermarga.

To prove that just before the occurence he led the accused a little away to prevent him from attacking the deceased.

(32)

Wit.7 Chandravathi, w/o Aithappa Poojari, Kadri.	To prove that the accused went to the deceased's house the previous day to the occurence and want the deceased to meet at Neermarga the next day.
Wit.8 G. Seetharama, P.C. 282 Mangalore East Station.	To prove the complaint of P.W.1 before him.
Wit.9 P.C. 145 Ramakrishna, Mangalore East Station.	To prove the identity of the body for the post mortem.
Wit.10. Sri E.S. Jacob, C.A.S., Govt. Wenlock Hospital, Mangalore.	To prove the post mortem.
Wit.11. Janab Iqbal Khan, S.I.of Prohibition, Padavu.	To prove that a few days prior to the occurence the accused was caught with arrack in his station Crime No. 114/52.
Wit.12. P.C. 435 K. Narayana, Mangalore East Station.	To prove the arrest of the accused.
Wit.13. H.C. 379 P.V. Lewis, Mangalore East Station. Wit. 14. K. Balakrishnan Nair,S.I. of Police, Mangalore East Station. Wit.15 Sri M. Govinda Menon, Inspr.of Police, Mangalore.	To prove their respective investigation.
Wit.16. Magisterial Head Clerk S.S.M. Court, Mangalore.	To prove the reports of the Chemical Examiner and Serologist.
Wit.17. Emanuel Bangera @ Mana, s/o Dama Bangera, driver of lorry MDX. 1647, Kanakandy.	To prove the production of knife before wit.13 etc.

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(Sd/-) xxx 21.10.52.
Sub-Inspr.of Police,Mangalore East.

True copy.

MKP/3/5.

3/64 Dt. Sub Inspector of Police, Mangalore East

[Man. Form 30.] Home Dept. I-20—302—4-4-50.

PETITION FOR MERCY.

[C. No. 97881 Cts. I/53.

HOME DEPARTMENT.

From the Deputy Registrar, Appellate Side, High Court, No. B.C. 185/53, dated 1.5. 1953.

[C. No. ——.]

From the Superintendent of the Central Jail, Cannanore, No. R.15/2292/53, dated 18.5. 1953, forwarding appeal for mercy from Convict No. 5243, Vasu Samagara, ——, under sentence of death in South Kanara Sessions Case No. 2 of 1953, which sentence has been confirmed by the High Court in Criminal Appeal No. 110/53 (R.T. No. 32/53).

From the D.S.P., South Kanara, Mangalore, No. C1/6627/53, dated 6.5.53.

FOR ORDERS.

The Superintendent of the Central Jail, Cannanore, certifies that the sentence will not be carried out until a definite reply from the Government has been received.

2. The sentence of death passed on the petitioner is not for an offence against any law exclusively relatable to a matter to which the executive power of the Union extends and this petition should therefore be considered by the State Government in the first instance.

Rule 1576/53.

The petitioner, Vasu Samagara, was sentenced to death by the Sessions Judge, South Kanara, for the murder of Aithappa Poojary, by stabbing him with a dagger at about 11-30 A.M. on 4.10.52 in Neermarga village and the sentence has been confirmed by the High Court.

2. The prosecution case is set out in paragraphs 2-5 and the defence case in paragraph 6 of the High Court's judgment.

3. From about six months prior to the occurrence the petitioner, the deceased and one Koragappa Poojary,

all belonging to Mangalore, were frequently found together at the tea-shop of P.W.1 in Neermarga village, about eight miles from Mangalore. There is no evidence as to what business they had there, but the talk was that they were trading in illicit arrack. According to the Prohibition Sub-Inspector having jurisdiction over the area (P.W.7), Neermarga was a hot-bed of distillation and was a source of supply to Mangalore Town. On 26.9.52, P.W.7 arrested the petitioner while the latter was taking 15 bottles of arrack in an air pillow to Mangalore. He was released on bail to appear before the Magistrate on 3.10.52, but he failed to appear in Court on that day. The murder was the result of the petitioner suspecting the deceased Aithappa Poojary of having given information to the Prohibition authorities leading to the arrest of the petitioner.

4. On the date of the occurrence (4.10.52) the petitioner, the deceased and Koragappa Poojary went to the tea-shop of P.W.1 at about 10-30 A.M. While they were having their tea they began discussing about the prohibition case pending against the petitioner but by the time they left the tea-shop after having had their tea, the discussion became very heated and assumed the shape of an altercation, the petitioner charging the deceased with having got him caught in the prohibition case and the deceased denying the charge. Koragappa tried to pacify the petitioner by saying that he and the deceased would somehow or other help him out of the

para 3 p2 and para 3 p. 6.7 C.P.

case; but the deceased was obstinate in his denial and said that he knew nothing about the prohibition case and could do nothing to help the petitioner. Thereupon the petitioner drew a dagger (M.O.1) from his waist saying "I am going to jail in any case. I shall kill you and go" A customer in the tea-shop (P.W.4) intervened, caught hold of the petitioner by his hand and led him away to a distance of about half a furlong, where the petitioner shook himself free and assured P.W.4 that he had drawn the dagger only as a gesture and had no intention of using it. Thereupon P.W.4 went away towards his house and the petitioner went towards P.W.1's tea-shop. Meanwhile the deceased and Koragappa had engaged themselves in a scuffle and gone into the street struggling with each other. The petitioner went running towards them and stabbed the deceased on his head and left flank with the dagger he had. The deceased dropped down dead and the petitioner and Koragappa ran away from the scene, the petitioner taking the dagger with him. Apart from the tea-shop owner (P.W.1), his brother (P.W.2) who was working along with P.W.1 in the tea-shop, a tailor (P.W.3) who had his shop in the same building, a customer in the tea-shop (P.W.5) and another witness (P.W.6) who happened to be passing that way from his house to his betel vine garden, all saw the entire occurrence which took place right in front of the tea-shop of P.W.1. P.W.3 went to report the matter to the Patel who lived about two miles away. As the Patel was not at home, P.W.3 proceeded to the Mangalore East Police Station, eight miles away, and gave a report (Exhibit P-1) at 3 P.M. The account given in Exhibit P-1 was the same as that spoken to by the witnesses in the Court. The petitioner was arrested on 6.10.52 when he was travelling in the lorry driven by P.W.9. After the petitioner had been taken away P.W.9 reached his destination and unloaded his lorry when he found the dagger (M.O.1) in the back of the lorry where the petitioner had been seated.

para 4, p2 and para 3 p7 C.P.

para 5 p2 and para 4 p7 C.P.

p30 of (B) X p3 C.P.

para 6 p2 & para 5 p3 C.P.

P.T.O.

On 10.10.52, on the information furnished by the petitioner, P.W.9 was traced and questioned and the dagger (M.O.1) was recovered from him. But the weapon had no traces of blood on it, the obvious reason being that the petitioner had sufficient time to have the weapon washed. After completing the investigation the Sub-Inspector (P.W.15) laid the charge-sheet on 21.10.52.

5. The petitioner's plea in the Courts was one of denial. He denied that he even knew the deceased. He suggested that P.Ws. 4-6 who were related to each other suborned the evidence of P.Ws. 1-3 and foisted a false charge against him. He did not examine any defence witnesses. The Courts held that the petitioner's plea was false since P.Ws. 1-6 were more or less strangers to the petitioner and had no reason to speak falsely against him, that the eye-witnesses (P.Ws. 1-3, 5 and 6) had given a consistent and convincing account of what took place, that the petitioner was clearly guilty of murder and that there were certainly no extenuating circumstances. Of the 4 assessors 2 were of opinion that the petitioner was guilty of murder; one found him guilty of culpable homicide not amounting to murder; and the fourth opined that the petitioner was innocent.

6. The petitioner inflicted on the deceased three injuries. Two were incised wounds on the head. The third was a gaping incised wound on the left flank which had pierced through the lung and the heart. The medical opinion was that the last mentioned injury was a necessarily fatal one and that death must have been more or less instantaneous.

7. Although the petitioner denied the offence in the Courts, he has admitted the guilt in his petition for mercy. He has stated that on the day of the occurrence he was entertained to arrack by his friends

(Koragappa and the deceased), that the offence was committed in the course of a drunken quarrel, that there was no plan or premeditation on his part to commit the offence, that the realisation of the fact that he had been the instrument of causing such a heinous act overwhelms him with remorse. that he is a married young man of 30 years, that his wife is only 20 years old with two small children, that he has been the sole support and bread-winner for them, that he has also his aged parents who had always looked to him for support and that he may be shown mercy. He has added that a decision to hang him would not compensate the deceased, that such a decision would only add to the tragedy but that any mercy shown to him would be a boon to his unfortunate family.

The murder would appear to be a deliberate though perhaps not a pre-planned one, since P.W.4 by taking the petitioner away from the scene of quarrel had given the petitioner's temper a chance of cooling down. But the petitioner returned to the scene of quarrel and suddenly attacked the deceased with a lethal weapon without any grave or sudden provocation. The petitioner seems to have had a rather bad history during the last 15 years. He was detained in Borstal School for 3 years from November 1938 onwards and thereafter he has had four convictions for theft and a fifth one for an offence under Section 64 of the Madras City Police Act. For the last offence he was sentenced to two months' R.I. in September 1951.

8. The petitioner is 31 years old. The deceased was aged about 38 years at the time of his death. They were not related to each other.

For orders on the petition for mercy..

22.2.53

The petitioner has no case

97881 Cr. I
Bom

6/

a bad record & it cannot be
said that he stabbed the
deceased in a fit of righteous
indignation when they were involved
in illicit trade & like all bad men
fell out ~~with each other~~ the deceased came by an unexpected
violent end & the petitioner is
not eligible to any special
consideration & therefore the law
may be permitted to take its course.

T. Rathakrishnan
22.6.53.

M (Law) No ground to exercise clemency
K.D. Krishnamurthy
29-6-53

CM

There is no ground to take a lenient view of the case. It is a murder of the deliberate kind without any extenuating circumstance such as we could take into account. He is 31 years of age. It is recommended that the petition be rejected

C. Rajamannar.
30.6.53

The petitioner be and is hereby rejected

S. Varadachariar
7.7.1953

P.T.O.

97881 Cts I/53
Bnc

A.S.

With reference to the orders in circulation on p.6 above two drafts are submitted for approval.

2. The case will be resubmitted after issue of the drafts with reference to portion marked X in para 1 of the Governor's minute on p. of the unofficial notes below

Pers 9.7.53 Pers 9.7.53

PP 9.7.53

p29 c.p.
p30 c.p.
p31 c.p.

[Issued as memo. no. 97881-5, d. 9.7.53 Ex Cr 6, ..]

From the Superintendent, Central Jail, Cannanore, No. R.15/3337/53, dated 13.7.53.

A.S.

The Jail Superintendent's acknowledgment on p. 31 c.f. may be perused. The President's orders on the petition may be awaited.

2. Portion marked X in para 1 of the Governor's minute on p.1 of the unofficial notes below: In another petition for mercy case the Governor raised the question of rendering help to the families of prisoners who are sentenced to death and executed. The question was examined in detail in consultation with Finance and it was ordered in circulation that it was best in all these cases to leave matters to Society. That case was seen by the Governor after he recorded his minutes in this case. In

papers in f.o. 1 LS. 2193 Bnc (A) 7.7.53

X on p.7 of (A)

9788-Cts.
Bal

8.

the circumstances it seems unnecessary to pursue the question further in this case. For orders.

Pw 16/7/53 Pw 16.7.53

DS 17.7.53

DS III

Cs 18/7

From the Govt. of India, Ministry of Home Affairs, no. 32/118/53-Judl., d 30.7.53 p33cp

N.S.

These drafts are submitted for approval. The press note may be sent to P.W. (I+P) for acceptance after issue of drafts D+E

Pw 3/8/53 Pw 3.8.53

DS 4.8.53

DS III

Cs 4/8

P.W (I & P) a.i.g.

ASSISTANT SECRETARY TO GOVERNMENT 6-8-53 HOME DEPARTMENT

D. issued as G.O. (Ms) No. 2783-84, Home, d. 5/8/53] 4p 2 cp

Home.o.9788Cts.I/53-8

5/8/53

Seen in Pw (I & P)

KS 6.8

Home

- 3 AUG 1953 6026

P.W (I&P) no 2
6076/53-1

P.F. 53

PR 1481 6/8/53

Home Department

A.S.

The draft Press Note which has been seen in P.W. (I&P) may now be circulated

7/8/53. 7.8.53

P. Hamilton
7/8/53

H.J.C. 3

K.D. Kulkarni
8-8-53 H (Law)

M. V. [illegible]
10-8-53 H(Edn.)

I fear these press notes are not regularly published.

Special with Covering letter should be sent each time to Editors explaining the desirability of publishing the news as a deterrent of heinous crime

C.M.

Now 12.8.53

C. Rajagopalachari?
11.8.53

I see C.M's orders above. Are not special covering letters sent each time to editors. We should also request them to let us know whether these press notes are published in our dailies regularly & the Dist. publicity officers.

[illegible]
10/8.

W

9788/53 I

Bcu

AS.

The case may now be sent to P.W. (I&P) for issue of the draft Press Note. That department's attention may be invited to the orders of C.M: and the request of DS III at X on P.9 / A 6295 above

PW 12/8/53. PS 12/8/53

BG 13/8/53 DS

CS 13/8

P.W (I+P)

Home D.O. No 9788/53/B-9 13-8-53

P.W (I&P) Dept.

Issue with Covering letter BG/13.8.B

The Press Note has been issued ~~and~~ with special covering letter to the Editors and five copies of the same are placed below. The file may be returned to Home Dept

Abram 14/8/53

PS 14.8.0

BG/17.8.B

P.W (I&P) D.O 6295/53 I 17/8/53

Home

Home Dept.

D.S.

The file may now be closed.

PW 17/8/53 PS 17/8/53

Extract of CM's minute may be kept & PW (I&P) informed of it as at A above in every such case BG. 17/8/53

ASSISTANT SECRETARY TO GOVT. 17 A HOME DEPARTMENT 17/8

noted. PW 18/8/53 18/8/53

HOME DEPARTMENT.

SUMMARISING NOTE.

The petitioner, Vasu Samagara in Central Jail, Cannanore, was sentenced to death by the Sessions Judge, for the murder of Aithappa Poojary, by stabbing him with a dagger at about 11-30 A.M. on 4.10.52 and the sentence has been confirmed by the High Court. The Sessions Judgment is dated 4.2.53 and the High Court's Judgment is dated 21.4.53.

2. From about six months prior to the occurrence, the petitioner, the deceased and one Koragappa Poojary, all belonging to Mangalore, were frequently found together at the tea-shop of Chandappa in Neermarga village, about 8 miles from Mangalore. The talk was that they were trading in illicit arrack, but there was no proof of it. There is evidence that Neermarga was a hot-bed of distillation and was a source of supply to Mangalore Town. The petitioner was arrested on 26.9.52 while he was taking 15 bottles of arrack in an air pillow to Mangalore and released on bail to appear before the Magistrate on 3.10.52; but he failed to appear in Court on that day. The murder was the result of the petitioner suspecting the deceased of having given information to the Prohibition authorities leading to the arrest of the petitioner.

3. The petitioner is 31 years old. The deceased was aged about 38 years at the time of his death. They were not related to each other.

4. The murder would appear to be a deliberate though perhaps not a pre-planned one. The petitioner threatened to stab the deceased during the course of a quarrel but one of the witnesses led away the petitioner from the scene of quarrel and thus gave his temper a chance of cooling down. But the petitioner returned to the scene after the witness left him and suddenly attacked the deceased with his dagger killing him instantaneously.

5. On the date of the occurrence (4.10.52) the

para 1 p2 and para 3 p6-7 o.p.

petitioner, the deceased and Koragappa Poojary went to the tea-shop of Chandappa in Neermarga. While they were having their tea they began discussing about the prohibition case pending against the petitioner but soon the discussion became heated and assumed the shape of an altercation, the petitioner charging the deceased with having got him caught in the prohibition case and the deceased denying the charge. Koragappa tried to pacify the petitioner by saying that he and the deceased would somehow or other help the petitioner out of the case; but the deceased intervened and said that he knew nothing about the case and that he could do nothing to help the petitioner. Thereupon the petitioner whipped out a dagger from his waist and threatened to kill the deceased. A customer in the tea-shop (Alphonso Minezes) intervened and led away the petitioner to a distance of about half a furlong where the petitioner shook himself free and assured the witness that he drew out the dagger only as a gesture and that he had no intention of using it. Thereupon Alphonso Minezes went away to his house and the petitioner went towards the tea-shop of Chandappa. In the meantime Koragappa and the deceased had engaged themselves in a scuffle and had gone across the road in front of the tea-shop pushing and pulling each other. The petitioner rushed to the place and stabbed the deceased on his head and left flank with his dagger. The deceased dropped down dead and the petitioner and Koragappa ran away from the place. The petitioner was arrested on 6.10.52. The Courts held that the petitioner was clearly guilty of murder and that there were certainly no extenuating circumstances. Of the four assessors, two found the petitioner guilty of murder, one found him guilty of culpable homicide not amounting to murder and the fourth found him innocent. Though the petitioner's plea before the Courts was one of denial of the offence, he has admitted

para 4 p2 and para 3 p7 o.p.

para 6 p2 o.p.

para 10-11 p3 and para 8 p 8 C.P.

para 9 p3 C.P.

para 6 p7 C.P.

pp. 23-27 ep.

the guilt in his petition for mercy and has pleaded that the offence was committed in the course of a drunken quarrel and that there was no plan or premeditation on his part to murder the deceased.

For orders.

22.6.53

Seen

22.6.53

CJ

No. 9. 881 CS 1/53
Bdl.

7/296

7

HOME DEPARTMENT.

UNOFFICIAL NOTES.

(Condemned prisoner - Vasu Samagara)

M (Law) No ground to exercise clemency
K.D. Kulasuriya
23-6-53

C.M This kind of murder leading up to murder is not one which is in my view entitled to consideration on the question of clemency. There is no case for clemency
C Rajasingham
23.6.53

M This is a hard case; and from the standpoint of the family of the petitioner, a very sad one too. The murdered man may also have a family of which there is no mention in the case. Such unfortunate families have scarcely an occasion to describe their own plight in the course of a murder trial. I wish it were possible for the State to take charge of such families when they cannot protect what is their obvious duty, a murder being committed specially in a public street, as has happened in this case.

2. It appears to me to have been a case of a quarrel among drunken bad characters, but as it is not proved that the petitioner was actually drunk at the time and as not in possession of his senses to be able to understand what he was doing, the required extenuating circumstance is available. [illegible]

18/ (contd.) 2

9.788 Bdl

was actually drunk at the time, there is however no evidence on record to that effect

3. I fear I am unable to agree with CM the petition may be rejected

Sd/- Prakasa

27-6-1953

Re-circulated for the recording of the formal memos

L. Subbaswamy
DSI
29 June 53

M (Law) K.D. Krishnamurthi
29-6-53

C.M & C (Reappointments)
30.6.53

Sd/- Prakasa

4.7.1953

GOVERNOR'S SECRETARIAT
2 JUL 1953
214

JOINT SECRETARY TO GOVERNMENT
6 - JUL 1953

ADDL. DY. SECRETARY TO GOVERNMENT
6 JUL 1953
HOME DEPARTMENT